

March 7, 1994

Daryl K. Knox, M.D.  
6575 West Loop South  
Suite 690  
Bellaire, Texas 77401

Dear Dr. Knox,

Enclosed please find a copy of your deposition taken on February 18, 1994, along with the original signature page and errata sheet. Please read your deposition and make any corrections on the errata sheet. Initial the errata sheet, sign the original signature page and have your signature notarized. You will have twenty days from receipt of this letter to do so.

When completed, please return the errata sheet and the original signature page to the Houston office, to my attention.

Please feel free to contact me should you have any questions or if I can help you in any way.

Sincerely,



s/ Melissa A. Cook  
Reporting Affairs Manager

MAC/jb  
Enc.

cc: Alden Holford

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF TEXAS  
3 HOUSTON DIVISION

4 MRS. SAMUEL E. ALLGOOD  
5 INDIVIDUALLY AND AS  
6 INDEPENDENT EXECUTRIX OF  
7 THE ESTATE OF SAMUEL E.  
8 ALLGOOD, MARCUS ALLGOOD,  
9 AND MALCOLM ALLGOOD

10 Plaintiffs,

11 VS.

12 R. J. REYNOLDS TOBACCO  
13 COMPANY, THE AMERICAN  
14 TOBACCO COMPANY, THE  
15 TOBACCO INSTITUTE, INC., AND  
16 THE COUNCIL FOR TOBACCO  
17 RESEARCH-U.S.A., INC.

18 Defendants.

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CIVIL ACTION NO. H-91-0158

19 DEPOSITION OF

20 DARYL K. KNOX, M.D.

21 On February 18, 1994, the oral deposition  
22 of the Witness in the above-styled cause was taken at  
23 the instance of one of the Defendants at the law  
24 offices of Cruse, Scott, Henderson & Allen; 1850 Two  
25 Houston Center; 909 Fannin Street; Houston, Texas,  
pursuant to Stipulations of Counsel contained herein.

COPY

Those persons present were as follows:

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MRS. SAMUEL E. ALLGOOD, INDIVIDUALLY  
AND AS INDEPENDENT EXECUTRIX OF THE  
ESTATE OF SAMUEL E. ALLGOOD; MARCUS  
ALLGOOD, AND MALCOLM ALLGOOD

MR. SAM W. CRUSE, JR.  
Cruse, Scott, Henderson & Allen  
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and

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## DEPOSITION OF DARYL K. KNOX, M.D.

February 18, 1994

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2	One-Page 3/31/93 Memo to Dr. Knox from Mr. Holford, Re: Request for Expert Testimony	
2	Four-Page 3/31/93 Memo to Dr. Knox from Mr. Holford, Re: Request for Expert Testimony; Three-Page Resume of Alden D. Holford	42
3	One-Page 7/12/93 Letter to Dr. Knox from Mr. Holford with Attached One-Page List of Defendants' Trial Experts, Re: C.A. No. H 91-0158	55
4	Copy of Page 6 of "SmokeFree Air," Fall 1993	58
5	Copy of Two-Page Article from American Cancer Society Entitled, "Facts about Smoking and Young Women"	58
6	Copy of One-Page TIME Article Entitled, "Smoking Should Not be a Part of Growing Up," 1/27/92	58
7	Copy of One-Page "Houston Style" Article Entitled, "Philip Morris Doesn't Want Kids to Smoke," Volume Two, Number Ten	58
8	Copy of Article from HOUSTON CHRONICLE Entitled, "Worries Outside the Classroom"	58
9	T650320-MU-T650324-MU, News Release from National Association of State Boards of Education	59

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S T I P U L A T I O N S

IT IS STIPULATED AND AGREED BY COUNSEL FOR  
THE PARTIES HERETO:

That the deposition of the Witness named  
herein is taken pursuant to Notice;

That the Witness may sign said deposition  
before any duly authorized and acting Notary Public  
for the appropriate area in which signature is  
obtained;

That this deposition may be used upon the  
trial of this cause with the same force and effect as  
if the applicable Federal Rules of Civil Procedure  
with reference to the taking of the deposition and  
return of same had been fully followed;

That the original transcript of this  
deposition will be given to MR. SAM W. CRUSE, JR.,  
who will be responsible for filing same with the  
Court, in the event such act is called for by any  
party to this cause;

1                   That if, for any reason, the original  
2 transcript of the deposition cannot be located at the  
3 time of trial, an unsigned copy may be used in lieu  
4 thereof.

5  
6  
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9                   \* \* \* \* \*

1                                    DARYL K. KNOX, M.D.,  
2       having been duly sworn, testified as follows, to-wit:

3  
4       EXAMINATION BY MR. RILEY:

5           Q                Would you state your name for the record,  
6           please, sir.

7           A                I am Dr. Daryl Knox.

8           Q                Where do you reside, sir?

9           A                I reside in Sugar Land, Texas.

10          Q                Do you have a business address?

11          A                Yes, I do.

12          Q                What's that?

13          A                6575 West Loop South, Bellaire; Texas;  
14          Suite 690.

15          Q                Doctor, my name is Tom Riley; and we met a  
16          little while ago for the first time. Is that right?

17          A                That's right.

18          Q                And you understand that I am one of the  
19          lawyers for the American Tobacco Company?

20          A                Yes.

21          Q                And I represent American in a lawsuit  
22          that's been filed by Bonnie Allgood and her sons  
23          against American Tobacco and other defendants.

24                            Do you understand that?

25          A                Yes.

1 Q Have you ever had your deposition taken  
2 before?

3 A Yes.

4 Q How many times have you been deposed  
5 before?

6 A Probably maybe three or four times.

7 Q When was the last time you gave a  
8 deposition?

9 A I don't know if I remember the exact date -  
10 probably six months ago.

11 Q Was that in a civil lawsuit?

12 A Yes.

13 Q What did that suit involve?

14 A That suit involved a patient that I was  
15 treating for posttraumatic stress syndrome who had  
16 been delivering pizzas at a high-rise luxury  
17 apartment and was attacked and assaulted by the  
18 security guard there, and the action was my patient  
19 suing the condominium.

20 Q You were testifying as the plaintiff's  
21 treating physician?

22 A That's right.

23 Q And who was the plaintiff's lawyer in that  
24 case?

25 A Oh, gosh. I don't really remember his

1 name.

2 Q Do you remember the name of the defense  
3 lawyer?

4 A No, I don't.

5 Q Do you have any records that relate to your  
6 testimony in that case? Do you have a copy of the  
7 transcript, for example, of your deposition?

8 A No, I don't.

9 Q What was the name of your patient?

10 A I can't divulge that information. That's  
11 confidential.

12 Q What was the caption of the lawsuit?

13 A I think it was Lamar Towers was who the  
14 action was against.

15 Q Who was the plaintiff in the lawsuit?

16 A That was my patient.

17 Q Well, I think you can tell me the name of  
18 the plaintiff in the lawsuit because that's a matter  
19 of public record, sir, I believe.

20 A You know, I just don't feel I can really  
21 divulge my patient's name. You can look it up if it  
22 is public record, I would think.

23 MR. HOLFORD: That's all I was  
24 going to say.

25 Q Was it filed in State Court or in Federal

1 Court?

2 A I believe State Court, but I am not  
3 positive of that.

4 Q Was it here in Houston?

5 A Yes.

6 Q Did you charge for your time in that case?

7 A Yes, I did.

8 Q At what rate?

9 A My rate was \$450 an hour, two-hour minimum  
10 at depositions.

11 Q Prior to your deposition in that case, when  
12 was the time before that that you were last deposed?

13 A I can't say for sure. I would have to  
14 guess, maybe six months before that or a year before  
15 that, probably.

16 Q What kind of case was it?

17 A I think that may have been a case of I had  
18 a patient who had worked for an oil company and he  
19 had felt that he had been wrongly discriminated  
20 against in a promotion in that company and I was  
21 deposed based on my treatment of him for some  
22 adjustment reactions he was having to that.

23 Q Again, you testified as the treating  
24 physician?

25 A Yes, I did.

1 Q Was that lawsuit in State or Federal Court?

2           A           It was a Federal case.

3           0           Who was the plaintiff's lawyer?

4           A           I can't remember his name. I just can't  
5           remember. It is so long ago. I can't remember his  
6           name exactly.

7 Q Would you have any records that would allow  
8 us to determine the names of the cases that you have  
9 testified in in the past?

10 A It would probably be stated in my patient  
11 records, my patient files.

12 Q Other than your patient files, would you  
13 have any other records that would show the number of  
14 times that you have been deposed before and the names  
15 of the cases and so on?

16 A That would all be in my patient records. I  
17 generally just keep a copy of that in their records,  
18 and I wouldn't have any separate listing outside of  
19 that.

20 Q Who was the defendant in the discrimination  
21 lawsuit you were just talking about?

22       A           Again, you know, I don't really feel  
23       comfortable divulging that.

24 Q I said the name of the defendant.

25       A           Oh, the defendant. Exxon, I think, was the

1 defendant.

2 MR. CRUSE: Let me interject. I  
3 don't mean to interrupt. We don't in  
4 any way want to pry into your  
5 doctor/patient relationship; but on  
6 the other hand, you are an expert  
7 witness in this case and we would like  
8 to look at prior testimony that you  
9 have given for whatever reason and we  
10 are entitled to that and Mr. Holford  
11 knows that. I assume you know that.

12 But we can't do that - we can't  
13 find those records without the name of  
14 the entire case. We can't go look up  
15 Lamar Towers and say, "Well, this is  
16 the case," and then go get your  
17 deposition.

18 So, what we need to know is the  
19 name of the plaintiff and nothing  
20 about your doctor/patient  
21 relationship. And even though you  
22 feel uncomfortable, we are entitled to  
23 that for the reason I said; and I just  
24 thought maybe with that explanation,  
25 you could save us a lot of time and

1 trouble.

2 MR. HOLFORD: I think given what  
3 Dr. Knox has said, you are able to  
4 find with the defendant's name and the ---

5 MR. CRUSE: (Interrupting) Tell  
6 me how we do that.

7 MR. HOLFORD: Well, in State  
8 Court, of course, it is very simple.  
9 You can run his name as an expert on  
10 JAMS. You can find out anything he  
11 has done in State Court. You know  
12 that.

13 MR. CRUSE: But the name of a  
14 plaintiff in a suit isn't in any way  
15 privileged. We wouldn't infringe upon  
16 his doctor/patient relationship, and  
17 it is something that we are entitled  
18 to know without having to go to a lot  
19 of trouble or without having to go to  
20 Judge Hittner is what I am trying to  
21 tell you.

22 MR. HOLFORD: In Federal Court,  
23 Mr. Cruse, I am not as sure. I know  
24 with the defendant's name and the  
25 approximate date of the case -- I know

1                   that you-all have - and by "you-all,"  
2                   I mean the tobacco industry attorneys -  
3                   have found much, much more or ---

4                   MR. CRUSE: (Interrupting) But  
5                   the point is we are not asking him to  
6                   do anything that is unethical, bad, or  
7                   whatever. We are asking him to tell  
8                   us the name of a case that's a public  
9                   record.

10                  And what you are doing by doing  
11                  this is making us have to go to a lot  
12                  of trouble when there is no reason for  
13                  it. That's my point.

14                  MS. COURINGTON: Mr. Holford, I  
15                  think you know that under the Texas  
16                  Rules of Evidence, when a patient puts  
17                  his physical, mental, or emotional  
18                  condition at issue in the case, he has  
19                  waived the privilege to the extent  
20                  that it deals with that issue. And,  
21                  certainly, his name as a plaintiff  
22                  would not be a privileged matter.

23                  Furthermore, I know you are an  
24                  experienced enough trial lawyer to be  
25                  familiar with those portions of the

1 Texas Rules of Evidence. You know  
2 that the privilege is waived as to  
3 that.

4 MR. HOLFORD: I also know that  
5 Dr. Knox is not my client, and I  
6 simply am not going to enter into the  
7 debate on what is the proper  
8 construction of the Texas Rules of  
9 Evidence. He has his own  
10 understanding. I don't choose to  
11 disturb it. I don't think you should,  
12 and I know you can find these cases.

13 MR. CRUSE: What do you mean you  
14 don't think I should? I am asking him  
15 the name of a case. There is nothing  
16 wrong with that. I represent doctors.  
17 You know there is nothing wrong. You  
18 are just trying to put us to a lot of  
19 trouble for nothing.

20 MR. HOLFORD: I am not doing a  
21 thing, Mr. Cruse. I stated clearly ---

22 MR. CRUSE: (Interrupting) We  
23 will do it the hard way. We will do  
24 everything the hard way.

25 Q Did you submit invoices in any of the cases

1       you have been deposed in before?

2       A           I believe so, yes.

3       Q           Do you have copies of those invoices?

4       A           Again, they would probably be in those  
5       particular patients' charts if we saved them at all.

6       Q           Would you be willing to go through those  
7       records for us, sir, and to pull out the invoices  
8       that show the depositions you have given in the past  
9       and produce them to Mr. Holford so that he can give  
10      them to us?

11      A           I would be willing to give them to  
12      Mr. Holford.

13                   Again, I am certainly not trying to cause  
14      any trouble here. I'm a psychiatrist and I feel I  
15      have to protect my patients' confidentiality and it  
16      may be appropriate, but I just don't feel comfortable  
17      in doing that in this setting.

18      Q           Would you do this? Would you go through  
19      your files and pull your invoices, sir? Would you do  
20      that and provide them to Mr. Holford?

21      A           I can. It may be difficult because, again,  
22      I don't really have any way of pulling up. I think I  
23      have about four cases. I can try to remember them  
24      off the top of my head and see if we can get them,  
25      but it has probably been four or five cases. We can

1 try to do that.

2 Some of the records may not even be in my  
3 office now. I was with a group before, and they have  
4 those records since I was working for the group. So,  
5 I don't know, those earlier depositions, if I even  
6 have invoices for those.

7 MR. HOLFORD: To be clear, when  
8 Mr. Riley suggests you provide them to  
9 me, that would be for their purpose of  
10 me then distributing them to them. I  
11 am not an active participant here.

12 A One of the things I would hate to have and  
13 I really feel -- I am going to have to think about  
14 that if I am going to do that because I don't really  
15 feel my patients should be dragged into some other  
16 case and the fact that they have been a patient  
17 because some of these people are in the community and  
18 are prominent and I don't really think it is fair to  
19 them to have their names bandied about.

20 Q What you think is fair or unfair is really  
21 not material. We are entitled to discover the cases  
22 that you have given testimony in in the past, and  
23 that's what we are trying to do.

24 A All I can say is that if you are entitled  
25 to that and if you get it without my giving it to

1       you, I would feel much better because I feel that I'm  
2       protecting my patients' confidentiality.

3                       MR. HOLFORD:  If I may, Dr. Knox,  
4                       were the one or two other cases that  
5                       we haven't talked about yet in Federal  
6                       or State Court?

7                       MR. RILEY:  Doug, I'm sorry.  I  
8                       will get to them.

9                       MR. HOLFORD:  Okay.

10    (By Mr. Riley)

11       Q            Would your income tax returns reflect the  
12       moneys that you received for your testimony in those  
13       other cases?

14       A            I believe they would, yes.

15       Q            And would your income tax returns have  
16       receipts attached, or would you have documentation  
17       that goes along with your income tax returns that  
18       would allow us to identify the names of the cases?

19       A            I don't think my income tax would identify  
20       those specifically.  That would be all put under, you  
21       know, business-generated income.

22       Q            Do you have any backup records that go with  
23       your tax returns that would show that information?

24       A            I guess, again, if that came up in a tax, I  
25       would have to go through and try to look through the

1 patients' charts to try to get that information.

2 Q You have told me about two cases that you  
3 testified in that you were deposed in. Going back in  
4 time, what's the one before the last one you were  
5 discussing? Do you remember when it was and what the  
6 case involved?

7 A I don't remember when it was exactly. It  
8 was probably some months; and, again, I may have the  
9 sequence of these mixed up because I just haven't  
10 kept those in my memory.

11 The other case I remember was another case  
12 of mine where I saw a patient who I think was working  
13 for a convenience store. And a customer came into  
14 the convenience store and kidnapped that patient and  
15 sexually assaulted that patient. And I saw the  
16 patient and treated him for trauma related to that  
17 incident, and I was deposed in that case.

18 Q And, again, you testified as the treating  
19 physician?

20 A Yes, I did.

21 Q And what was the name of the plaintiff's  
22 lawyer?

23 A The plaintiff's lawyer in that case, I do  
24 remember was Don Caggins.

25 Q Where is his office?

1 A (No response)

2 Q Is it in Houston?

3 A It is in Houston. I think it is off of  
4 Allen Parkway in that area somewhere. I am not sure.

5 Q Does he have his own firm or is he in a law  
6 firm that has a name or is he on his own?

7 A He is in a law firm and it is Caggins,  
8 whoever the other partner is, and someone else.

9 Q Caggins is the first name of the law firm?

10 A Gosh, I believe it is; but I am not sure.

11 Q Who was the defendant in that case - the  
12 one we have just been talking about?

13 A I am not sure. I think it was an insurance  
14 company of the store. I don't remember who it was.

15 Q Do you happen to remember the name of the  
16 defense lawyer in that case?

17 A I sure don't.

18 Q And if I asked you to tell me the name on  
19 the caption - the name of the plaintiff in that case -  
20 would you be willing to do so?

21 A If it was a patient of mine, no, I would  
22 not.

23 Q What about the next case that you can  
24 recall giving a deposition in?

25 A I am trying to remember. I can't recall.

1 That may have been it. I thought there was one more,  
2 but right now I can't really think of it. It was  
3 probably some years ago.

4 Q Other than the three depositions you have  
5 identified, have you ever given testimony in any  
6 other administrative or judicial proceeding of any  
7 kind?

8 A Yes.

9 Q And tell me about that.

10 A Well, I'm a consultant to the Social  
11 Security Division. That's an administrative law  
12 court where they review applicants who are applying  
13 for Social Security disability benefits, and I'm a  
14 medical expert to look at people who are claiming a  
15 mental health disability. So, I testify in those  
16 cases quite a bit.

17 Q Do you give testimony in administrative  
18 hearings in those proceeding?

19 A Yes.

20 Q How often do you do that?

21 A I have done that quite a bit. I would say  
22 maybe at least once or twice a month on an average,  
23 maybe.

24 Q When you do that, what rate do you charge  
25 per hour?

1           A           They have a flat rate that they give. They  
2           only allow by law, I think, \$80 for review of the  
3           records and \$80 for testimony. So, it is, I think,  
4           \$160.

5           Q           You get a total of \$160 for each case?

6           A           Yes.

7           Q           Other than the administrative hearings you  
8           have just mentioned and the three depositions you  
9           have given in the past, have you ever given testimony  
10          in any other administrative or judicial proceeding of  
11          any kind?

12          A           I don't believe so, no.

13          Q           Have you ever testified in open court  
14          before a judge or a jury?

15          A           Yes.

16          Q           When was that?

17          A           In the Federal case involving Exxon, I had  
18          to appear in Federal Court.

19          Q           That went to trial?

20          A           Yes.

21          Q           And you testified at trial?

22          A           Yes.

23          Q           Who was the judge at that trial?

24          A           Norman Black, I believe.

25          Q           Have you ever testified in open court on

1 any other indication?

2 A The other one was with Attorney Caggins. I  
3 went to court for that case.

4 Q Who was the judge in that case?

5 A I don't remember.

6 Q You are somewhat familiar with the  
7 deposition process, obviously, since you have been  
8 through this a couple of times before; but let me  
9 just explain to you a couple of the ground rules.

10 First of all, you understand that you are  
11 under oath?

12 A Yes.

13 Q And even though we are in a conference room  
14 in Mr. Cruse's office and this is an informal  
15 setting, you are under oath just as if you were  
16 testifying before a judge and jury.

17 Do you understand that?

18 A Yes.

19 Q And will you tell me, sir, if you don't  
20 understand any of the questions that I ask you or if  
21 for some reason my question is unclear, will you let  
22 me know that?

23 A I certainly will.

24 Q If I ask you a question that's outside your  
25 area of expertise, will you also let me know that?

1 A I will.

2 Q Do you use tobacco in any form, sir,  
3 currently?

4 A No.

5 Q Have you ever used tobacco in any form?

6 A I have smoked a cigarette before.

7 Q When did you smoke a cigarette before?

8 A Probably as a teenager and maybe once in  
9 college.

10 Q When was the first time you had a  
11 cigarette?

12 A I would probably say as a high school  
13 student, perhaps.

14 Q What grade were you in in high school when  
15 you first tried a cigarette?

16 A If I had to guess, I would probably say  
17 10th or 11th grade, perhaps.

18 Q Did you experiment with smoking at that  
19 time?

20 A I think I tried a cigarette to see what it  
21 would be like. I never really smoked any pack of  
22 cigarettes or any cigarettes in succession.

23 Q When you were in 10th grade or 11th grade,  
24 did you ever smoke on any regular basis at all?

25 A No.

1 Q How many times did you try a cigarette when  
2 you were in 10th or 11th grade?

3 A Three, maybe.

4 Q Were you with anybody when you tried these  
5 cigarettes?

6 A I think so. I may have been with friends.  
7 I can't remember exactly.

8 Q What made you try the cigarettes? Why did  
9 you do that?

10 A I guess just curiosity. I just wanted to  
11 see what it was like.

12 Q Is that all?

13 A I can't remember all that was running  
14 through my mind at that time. It may have been  
15 friends who smoked who said, you know, to try it or  
16 just to see what the experience would be like.

17 Q Where did you grow up? Where did you go to  
18 high school?

19 A I grew up in Milwaukee.

20 Q Now, you told me also that you had smoked  
21 some cigarettes or you may have smoked while you were  
22 in college. Did you do that, too?

23 A I may. I can't remember exactly if I did  
24 or not. I may have smoked in college.

25 Q You don't recall one way or the other?

1 A I don't, no.

2 Q Did you smoke at all when you were in  
3 12th grade in high school?

4 A I can't really remember, to tell you  
5 honestly, whether I did. I may have. I don't know.

6 Q Did you enjoy your smoking experiences?

7 A No.

8 Q And is that why you didn't continue?

9 A I didn't enjoy it, and that may have been  
10 one reason I didn't continue. Another reason, I just  
11 didn't feel that smoking was healthy.

12 Q So, there were two reasons you didn't  
13 continue. No. 1, you knew it was bad for your  
14 health?

15 A Yes.

16 Q And, No. 2, you didn't enjoy it, correct?

17 A Right.

18 Q Now, I assume when you were in high school,  
19 some of your friends smoked and some of them didn't.  
20 Is that fair to say?

21 A Yes.

22 Q If you were to pick out any given  
23 individual that you were friendly with in high  
24 school, can you tell me why that person smoked  
25 cigarettes - why one person did and one didn't?

1           A           I don't really recall any of my friends  
2                      that really smoked. I mean, there might have been  
3                      acquaintances. I don't really think that the circle  
4                      I hung around with, anybody smoked on any regular  
5                      basis.

6           Q           Do you recall the names of the brand of  
7                      cigarettes that you tried?

8           A           I sure don't.

9           Q           Do you remember where the cigarettes came  
10                     from? I am asking you whether somebody brought  
11                     them or whether you had bought them at a store or  
12                     anything.

13          A           They may have even come -- My mother  
14                     smoked, and I may have even tried some of her  
15                     cigarettes.

16          Q           You pinched a couple of her cigarettes?

17          A           I guess I did, yes.

18          Q           She didn't give them to you?

19          A           No.

20          Q           She wouldn't have done that?

21          A           I don't think so.

22          Q           Were you aware at the time you did that  
23                     that there was a risk of cancer associated with  
24                     smoking?

25          A           I think at that time that may have been

1 prior to all of the advertisement coming out linking  
2 cigarettes to ...

3 Q You don't recall one way or the other?

4 A I don't recall one way or the other.

5 Q Do you recall at all how you first became  
6 aware that there was a risk of cancer associated with  
7 cigarette smoking?

8 A I don't know when I first became aware, but  
9 I went to medical school. So, I know we got a lot of  
10 lectures there about smoking and that sort of thing;  
11 but prior to that, I don't remember exactly how I got  
12 that information.

13 Q Does your wife smoke cigarettes?

14 A No.

15 Q I understand from your C.V. that you have  
16 three children, correct?

17 A Yes.

18 Q How old are they?

19 A I have a daughter, age 15; a son, age 9;  
20 and a daughter, age 5.

21 Q Do any of your children smoke cigarettes?

22 A No.

23 Q To your knowledge, have any of them ever  
24 tried to smoke cigarettes?

25 A No.

1 Q Have you ever discussed smoking with your  
2 own children?

3 A Yes.

4 Q What have you told them about smoking?

5 A Well, that smoking is dangerous, that it is  
6 bad for your health.

7 Q Is that all you have told them?

8 A "Smoking can stain your teeth, the smell  
9 gets in your clothes."

10 Q Anything else that you can recall telling  
11 your children about cigarette smoking?

12 A "Your grandmother has a chronic cough, she  
13 always has colds and she smokes and she always has  
14 colds and that's probably why she has all of that."

15 Q Is that everything you've told your kids  
16 about cigarette smoking?

17 A I can't remember everything I have told  
18 them. I think that is probably the ---

19 Q (Interrupting) Is that all that comes to  
20 mind? That's all I am asking you, sir.

21 A Well, I guess I told them that maybe some  
22 children who do smoke -- I think my daughter - I may  
23 have had a conversation about her friends or  
24 something about smoking and trying to be cool or  
25 trying to fit into a certain image, that sometimes

1 children may be prone to that.

2 Q What have you told her about that, about  
3 being cool and fitting into an image?

4 A Well, I told her she should not do anything  
5 that was considered wrong or harmful just to fit in.

6 Q You think it is a good thing to tell kids,  
7 "You don't have to smoke to be cool," right? You  
8 think kids should be told that?

9 A Yes, you don't have to smoke to be cool or  
10 to be someone.

11 Q And you have told your kids that, and  
12 that's a good thing to tell kids. Would you agree  
13 with that?

14 A Yes.

15 Q Have your children been taught about  
16 smoking in school?

17 A I don't know. I really don't know.

18 Q Have you ever discussed cigarette  
19 advertising with your children?

20 A I don't think so. I don't recall that I  
21 have in particular.

22 Q Has your wife, to your knowledge, ever  
23 discussed cigarette or tobacco advertising with your  
24 children?

25 A Not that I'm aware of or can recall.

1 Q Have you ever discussed drinking with your  
2 children?

3 A Yes.

4 Q And what have you told them about that?

5 A That I don't approve of children drinking.

6 Q Is that all you have told them about that?

7 A Well, I think I may have told them that  
8 drinking can cause some people who are prone to  
9 alcoholism to become addicted to drinking. I may  
10 have told them that all adults who drink are not  
11 alcoholics necessarily, but that drinking should be  
12 reserved for when you become a legal age.

13 Q Is that everything you have told them about  
14 drinking, just to the best of your ability?

15 A To the best of my knowledge, that probably  
16 is.

17 Q Have you ever discussed beer or liquor  
18 advertising with your children?

19 A There may have been a discussion with a  
20 billboard or something like that or advertising in a  
21 magazine or something of that nature.

22 Q Do you recall any specific discussions of  
23 what you told them?

24 A I think we might have had a discussion once  
25 about the effects of advertising, especially in

1 minority communities, that there has been a -- I  
2 think there were some billboards that were seen when  
3 we went back to Milwaukee in the inner city with  
4 drinking and all that and my daughter might have  
5 commented on that and I might have talked about the  
6 tendency to ---

7 Q (Interrupting) You might have, but did you?

8 A You are asking me to remember. I remember  
9 having those ideas, and that could have been a  
10 situation with my daughter. I may have said that to  
11 her.

12 Q Said what to her?

13 A What I just told you.

14 Q Can you identify the current ad slogan for  
15 Pall Mall cigarettes?

16 A I don't think so, no.

17 Q How about Carlton cigarettes?

18 A I think Carlton is a low tar or low  
19 nicotine cigarette, I think.

20 Q Yes, but do you know what the current ad  
21 slogan for Carlton cigarettes is?

22 A No.

23 Q What about Salem cigarettes?

24 A No.

25 Q What about Winston cigarettes?

1       A           "Winston tastes good like a cigarette  
2       should."

3       Q           Okay. That's your recollection of the  
4       current ---

5       A           (Interrupting) The current slogan? Oh,  
6       that's an old one. I don't know if it is still  
7       around.

8       Q           You don't know the current slogan for  
9       Winston cigarettes?

10      A           No.

11      Q           What about Virginia Slims? Do you know the  
12      current slogan for Virginia Slims?

13      A           "You have come a long way, baby."

14      Q           Okay. What about Kools? Do you know the  
15      current ad slogan for Kool cigarettes?

16      A           I am not sure. I don't think so, no.

17      Q           What about Marlboro? Can you tell me what  
18      the current slogan for Marlboro cigarettes is?

19      A           The only thing is "Come to Marlboro  
20      Country."

21      Q           That's all you can remember?

22      A           That's all I can remember.

23      Q           How did you get involved in this case,  
24      initially?

25      A           Mr. Holford called me and asked if I would

1 be willing to be an expert in this case against the  
2 tobacco company.

3 Q Did you know before Mr. Holford before he  
4 called you?

5 A No, I didn't.

6 Q So, this was a call out of the blue, as far  
7 as you were concerned?

8 A Right.

9 Q Do you recall when you got that call?

10 A I suspect maybe around April or May of last  
11 year, just off the top of my head.

12 Q Did Mr. Holford tell you how he had gotten  
13 your name?

14 A He told me he had seen me on television, I  
15 think, during one of my spots on Channel 13.

16 Q Was there a particular spot he had seen you  
17 on?

18 A He didn't tell me if there was a particular  
19 one.

20 Q Did he tell you what the subject matter of  
21 that spot was?

22 A I don't think so, no.

23 Q Have you ever done a spot on Channel 13  
24 dealing with cigarettes or the subject of addiction,  
25 either one?

1 A Addiction.

2 Q And was that focused on any particular  
3 product?

4 A It mainly dealt with alcohol.

5 Q Have you ever done any spot on Channel 13  
6 that dealt with cigarettes?

7 A No, I don't think I have done anything on  
8 nicotine dependence.

9 Q Or smoking generally?

10 A No, not the general topic of that.

11 Q How many times have you done a spot for  
12 Channel 13 on alcohol use?

13 A Maybe three or four.

14 Q Do you have copies of any of the spots that  
15 you have done?

16 A (No response)

17 Q Either transcripts or tapes or copies.

18 A Yes, I think I have transcripts and tapes,  
19 yes.

20 Q Would you be willing to provide those to  
21 us?

22 A Sure.

23 Q Have you ever done a spot on Channel 13  
24 that dealt in any way with advertising?

25 A Not -- No, I haven't.

1 Q Now, when Mr. Holford made this phone call  
2 to you, what did he say to you?

3 A I think in general, he just told me that he  
4 was representing the family of a man who had started  
5 smoking at a very early age and had developed cancer  
6 and that he, you know, had a number of different  
7 experts who were testifying on various aspects of the  
8 case, that he wanted to know if I would be willing to  
9 serve as an expert just to talk about advertising on  
10 adolescents and teenagers and whether or not that  
11 will, you know, make them become addicted to  
12 cigarette smoking and also why teens, you know, try  
13 to emulate adult behavior, basically.

14 Q So, he asked you to testify about two  
15 things: No. 1, the influence of advertising on young  
16 people, correct?

17 A Yes.

18 Q And he asked you to testify about the fact  
19 that young people like to emulate adult behavior,  
20 correct?

21 A Yes.

22 Q That's all he asked you to testify about,  
23 correct?

24 A Yes, I think so, right.

25 Q Has he ever asked you to testify about any

1 other subject?

2 A No.

3 Q In this phone call did he give you any  
4 further details about the smoker in this case?

5 A I don't know if he did that in the first  
6 phone call - in that first phone call or not.

7 Q Did he give you any other information about  
8 who his other experts were and what they were going  
9 to say?

10 A I don't think so, no.

11 Q After you had this phone call with  
12 Mr. Holford, what was the next contact you had with  
13 him with respect to this lawsuit?

14 A I think the next contact may have been a  
15 letter that he sent.

16 MR. RILEY: Can you mark that as  
17 Knox Exhibit No. 1, please?

18  
19 (WHEREUPON, KNOX EXHIBIT NO. 1  
20 WAS MARKED FOR IDENTIFICATION  
21 PURPOSES. SAME WILL BE FOUND AT THE  
22 CONCLUSION OF THIS DEPOSITION.)  
23

24 (By Mr. Riley)

25 Q Let me show you what the court reporter has

1 just marked as Knox Exhibit No. 1 (Tendering). Take  
2 a look at the second page of that.

3 A (Reviewing document)

4 Q Is that the letter you were just referring  
5 to, sir?

6 A I think there may have been one even before  
7 this where he said you have agreed to testify as a  
8 medical expert in this case, and there may have been  
9 some other information. I think this one came -- I  
10 thought there might have been one before this, but I  
11 am not sure about that.

12 Q Do you have a copy of the first letter with  
13 you here today?

14 A I don't think so. (Reviewing file) No, I  
15 don't, no.

16 MR. RILEY: Doug, can you tell  
17 us: Was there a prior letter and do  
18 you have a copy of it and would you be  
19 willing to give it to us?

20 MR. HOLFORD: Yes, I will if  
21 there is one; but, well, I thought  
22 that was it.

23 MR. RILEY: You thought what was  
24 it?

25 MR. HOLFORD: This memo here

1 (Indicating).

2 MR. RILEY: I haven't seen that  
3 before. That's not been produced to  
4 us.

5 MR. CRUSE: Can I look at this  
6 one?

7 MR. RILEY: Sure.

8 MR. HOLFORD: I don't know what's  
9 clipped to that, now.

10 A That was later. You are asking about the --  
11 I can't remember the sequencing of letters. This may  
12 have been the next one, but I can't recall all of the  
13 contacts.

14 MR. HOLFORD: I don't have  
15 anything before that request there.  
16 That's within your Subpoena; so, is  
17 that just the request?

18 MR. RILEY: Do you mind if we  
19 mark this?

20 MR. HOLFORD: Let me see it. All  
21 I am curious about is just the  
22 request.

23 (Reviewing document) It is also  
24 my resume. Okay.

25 MR. RILEY: We can mark it?

1 MR. HOLFORD: Yes.

2 MR. RILEY: Would you mark that  
3 as an exhibit.

4 MR. HOLFORD: Oh, I'm sorry.  
5 That's your file copy?

6 THE WITNESS: Yes.

7 MR. HOLFORD: It is the same  
8 situation. If you will make a copy,  
9 yeah.

10

11 (WHEREUPON, KNOX EXHIBIT NO. 2  
12 WAS MARKED FOR IDENTIFICATION  
13 PURPOSES. SAME WILL BE FOUND AT THE  
14 CONCLUSION OF THIS DEPOSITION.)

15

16 (By Mr. Riley)

17 Q Take a look at what the reporter has just  
18 marked as Exhibit No. 2 and tell me what that is, sir  
19 (Tendering).

20 A (Reviewing document) It is a request for  
21 expert testimony from Attorney Holford to myself.

22 Q And what's the date on it?

23 A March 31st, 1993.

24 Q Did Mr. Holford send you a copy of that in  
25 the mail? Is that how you received that?

1           A           I believe so, but I am not sure. I think  
2           it was in the mail.

3           Q           The date on that request is the same as the  
4           date on the note here that's the second page of  
5           Exhibit No. 1. Do you recall which you received  
6           first? I am just trying to get the sequence of all  
7           this down.

8           A           I really don't. I can't recall all of  
9           that; but whatever the dates reflect, that would  
10          indicate the sequence. This was March 31st, '93,  
11          okay.

12                    I'm sorry. What was your question, again?

13          Q           I am just trying to figure out the sequence  
14          of all this. That's all.

15          A           Oh, I see. I know what this is. He had  
16          sent that to me before and I think I remember now and  
17          then I was supposed to get back with him and write a  
18          letter whether or not I feel I could provide expert  
19          testimony and my fees. So, the request came first;  
20          and then this letter came after that.

21          Q           You are referring to Exhibit No. 1, right?  
22          And you say here that you received this note from  
23          Mr. Holford dated March 31, 1993, right?

24                    MR. HOLFORD: Objection. He  
25                    indicated Exhibit 2, he received first

1 and then said he received that  
2 (Indicating).

3 MR. RILEY: I don't think he said  
4 that, Doug.

5 MR. HOLFORD: What is it, Doctor?

6 THE WITNESS: I'm sorry. Could  
7 you repeat your question?

8 MR. RILEY: It doesn't really  
9 matter that much.

10 (By Mr. Riley)

11 Q Did you receive Exhibit No. 2 from  
12 Mr. Holford?

13 A Yes.

14 Q Did you receive the second page of  
15 Exhibit 1 from Mr. Holford?

16 A Yes.

17 Q Do you recall which you received first?

18 A I believe it may have been this one I  
19 received first, but I am not sure now that I look at  
20 it (Indicating Exhibit 1). I am not sure.

21 Q After you received either of these letters  
22 from Mr. Holford, did you have any further contact  
23 with him until your letter of May 20th, 1993? And  
24 that's the first page of Exhibit 1.

25 A I don't believe so. I don't believe so.

1 There may have been a phone call, but I can't recall.

2 Q Did you receive any materials from  
3 Mr. Holford other than Exhibit No. 2 prior to writing  
4 your letter that's dated May 20th, 1993?

5 A I don't think so. I don't believe so.

6 Q Did you do any research with respect to  
7 cigarettes or cigarette advertising prior to sending  
8 this letter to Mr. Holford dated May 20th, 1993?

9 A No.

10 Q Did you review any studies or articles of  
11 any kind?

12 A No.

13 Q Have you ever talked with or do you know  
14 who any of the other experts for the Plaintiffs are  
15 in this case?

16 A Do I know them?

17 Q Do you know the names of any of them?

18 A Yes, I have seen the names.

19 Q Do you know any of them personally?

20 A I was on the faculty at UT and I think the  
21 expert - the substance abuse expert, Dr. Grabowski.  
22 I met him once or twice at a faculty meeting.

23 Q Is that the only contact you have ever had  
24 with Dr. Grabowski was at a faculty meeting?

25 A I think so, yes.

1 Q You never had any discussion with him about  
2 this case?

3 A No.

4 Q Do you know any of the other witnesses who  
5 have been named for the Plaintiffs in this case?

6 A I don't believe I do.

7 Q Do you know Patrick Remington?

8 A No.

9 Q Do you know Richard Pollay?

10 A No.

11 Q Do you know Joel Dunnington?

12 A No.

13 Q Do you know Dr. J. Ray Hays?

14 A Yes.

15 Q How do you know Dr. Hays?

16 A He is also on the faculty at UT when I was  
17 there in the Psychology Department.

18 Q Did you ever have any dealings with him in  
19 a professional capacity?

20 A I believe he may have done some  
21 psychological testing on one of my patients when I  
22 was at UT Medical School.

23 Q Is that the only contact you have had with  
24 him in any professional capacity?

25 A Yes.

1 Q Do you know Dr. Hays' reputation?

2 A I think he has a pretty good reputation, as  
3 far as I know.

4 Q What do you mean by "pretty good"?

5 A Well, I have not really heard anyone, you  
6 know, talk about his reputation, per se. I know he  
7 does a lot - I think, with juvenile probation - does  
8 a lot of consulting and speaking engagements.

9 Q He is a highly regarded professional over  
10 there?

11 A I believe so, yes.

12 Q Have you ever discussed this lawsuit with  
13 anybody else other than Mr. Holford?

14 A No one. Well, my wife, perhaps.

15 Q You said that Mr. Holford had given you or  
16 shown you the names of some of the other experts for  
17 the Plaintiffs. How did that come about?

18 A I think he may have given me that in a  
19 packet of articles and things that he had given me.

20 Q Did you read any summaries of testimony  
21 that was expected to be given by any of the  
22 Plaintiffs' experts?

23 A Yes, I did.

24 Q Is that all in the file folder that's in  
25 front of you now?

1 A Yes.

2 Q We will get to that in a little bit.

3 Other than what's reflected in the file  
4 folder, have you been provided any other information  
5 about the Plaintiffs' experts by Mr. Holford?

6 A No.

7 Q After you received these March 31st, 1993,  
8 communications from Mr. Holford, did you ask him to  
9 provide you with any other information prior to the  
10 time you wrote your May 20th letter to him?

11 A I don't think I ever requested him to  
12 provide me with any information.

13 Q To this day you have not asked Mr. Holford  
14 to provide you any information; is that right?

15 A No.

16 Q You have not done that?

17 A No.

18 Q Have you ever met Bonnie Allgood or talked  
19 with her?

20 A No.

21 Q How about Malcolm or Marcus Allgood?

22 A No.

23 Q Have you ever met or talked with any fact  
24 witness in this case, to your knowledge?

25 A What do you mean by "fact witness"?

1 Q Any of the other witnesses. Have you ever  
2 met or talked with anybody who knew Sam Allgood?

3 A No, other than Mr. Holford, I assume.

4 Q Do you consult on other matters - other  
5 litigation matters besides the ones we have already  
6 talked about this morning?

7 A No, not on a formal basis, no.

8 Q Is Mr. Holford paying you for the time that  
9 you are spending on this case for him?

10 A No.

11 Q When you go into court and testify in the  
12 courtroom, are you expecting to be paid by  
13 Mr. Holford?

14 A Yes.

15 Q Has Mr. Holford paid you anything for your  
16 work in this case, so far?

17 A No.

18 Q Have you put in any time on the case that  
19 you expect to submit to be paid for to Mr. Holford?

20 A I haven't thought about that, no.

21 Q How much time have you spent working on  
22 this case so far?

23 A I would probably say maybe about an hour  
24 and a half maybe two hours of looking at some of the  
25 materials and testimony here.

1 Q That's the material in the folder in front  
2 of you?

3 A Yes.

4 Q Are you going to charge Mr. Holford \$450 an  
5 hour for your testimony in the courtroom in this  
6 case?

7 A Am I going to charge him? I assume someone  
8 is paying \$450 an hour. I thought it was you.

9 MR. HOLFORD: He means at trial.

10 Q We are going to pay for your time today,  
11 but I am asking for your time at the trial. Are you  
12 going to charge Mr. Holford \$450 an hour for that?

13 A Yes.

14 Q How did you determine your rate of \$450 an  
15 hour?

16 A Gosh, I just felt that the strain and  
17 stress of giving depositions was worth that; although  
18 in talking with other colleagues, I hear that that's  
19 kind of on the low end. I thought it was on the high  
20 end.

21 Q It sounds high to me, too; but ...

22 MR. HOLFORD: Now, Mr. Riley, do  
23 you want to tell him your billing  
24 rate?

25 Q Have you ever discussed the fee arrangement

1 with Mr. Holford?

2 A No. I mean, well, in the sense that he  
3 asked me what my fee was; and I told him. I don't  
4 think there was any discussion after that.

5 Q When did you first learn you were going to  
6 be deposed in this case?

7 A I think I was told that that was a  
8 possibility when I agreed to do it that there would  
9 probably be a deposition; and since it was a Federal  
10 case, that I would probably have to testify in trial,  
11 also.

12 Q When did you first learn that you were  
13 going to be deposed on this date, though?

14 A On this date, I think that may have been  
15 sometime in either December or January he told me  
16 that the deposition would be coming in February, I  
17 think.

18 Q Did you have any discussions with  
19 Mr. Holford, let's say, from the time you wrote your  
20 May 20th, 1993, letter until the time your deposition  
21 was scheduled for today?

22 A Yes.

23 Q Tell me about the contacts you had with  
24 Mr. Holford from May 20th, 1993, until your  
25 deposition was scheduled for today?

1           A           I believe the only contact I had was when  
2           he called me to say we needed to schedule a  
3           deposition, and he came by my office.

4           Q           Had you met Mr. Holford before he came by  
5           your office?

6           A           No, I had not.

7           Q           When was that?

8           A           I would say early January, I believe, of  
9           this year.

10          Q           So, you had no contact with Mr. Holford  
11          from May 20th, 1993, until January of this year; is  
12          that right?

13          A           I believe so.

14          Q           When Mr. Holford came to your office in  
15          January of this year, what did you and he talk about?

16          A           We talked about the case. I think we - he  
17          asked my schedule for deposition. He dropped off  
18          some articles, told me a little bit about some of the  
19          other experts in the case, asked me if I had any  
20          questions, that sort of thing.

21          Q           What articles did he drop off for you? Are  
22          they in there (Indicating)?

23          A           They are in here.

24          Q           Why don't you take those out?

25          A           (Witness complying)

1 Q Would you pull out of that stack the  
2 articles that Mr. Holford dropped off for you in  
3 January of this year?

4 A Okay (Witness complying).

5 Some are articles. Some were affidavits, I  
6 guess, of Dr. Pollay.

7 THE WITNESS: I don't know if he  
8 dropped this. This may have been  
9 something of mine. I don't think this  
10 was part of it (Indicating).

11 MR. HOLFORD: I think I did.

12 THE WITNESS: You did, okay.

13 MR. RILEY: So, it looks like the  
14 whole file folder was dropped off by  
15 Mr. Holford.

16 MR. HOLFORD: I believe one of  
17 those is a letter package.

18 THE WITNESS: Yes, some of them  
19 are articles. Some of them are ---

20 MR. HOLFORD: (Interrupting) I  
21 meant this is your protective order  
22 and this one is the communication of  
23 the ...

24 MR. RILEY: Well let's do this.

25 Let me just identify on the record

1                                what we have got here, okay, Doug?

2                                MR. HOLFORD:    Sure.

3    (By Mr. Riley)

4                Q                Let me just go through it one at a time.  
5                The first item here is a copy of the Protective Order  
6                entered in this case on March 10th, 1992; and there  
7                is a Post-it on here that says:    "Yours to keep."

8                                I guess Mr. Holford gave you a copy of the  
9                Protective Order here?

10              A                Yes.

11              Q                Did you sign a copy of that Protective  
12              Order?

13              A                Yes, I did.

14              Q                You gave the original to Mr. Holford?

15              A                Yes.

16              Q                The second item in here is an affidavit  
17              signed by Dr. Richard W. Pollay; and it is dated  
18              September 2, 1993.    Is that correct, sir?

19              A                Yes.

20              Q                The next item is a letter that's dated  
21              July 12, 1993, and it is to you and it is from  
22              Mr. Holford; is that correct, sir?    And it has got a  
23              bunch of attachments to it, right?

24              A                Yes.

25                                MR. RILEY:    Let's mark those two

1 as Exhibit 3.

2  
3 (WHEREUPON, KNOX EXHIBIT NO. 3  
4 WAS MARKED FOR IDENTIFICATION  
5 PURPOSES. SAME WILL BE FOUND AT THE  
6 CONCLUSION OF THIS DEPOSITION.)  
7

8 (By Mr. Riley)

9 Q Take a look at what the court reporter has  
10 just marked as Exhibit 3 and tell me what that is  
11 (Tendering).

12 A (Reviewing document) It is a letter  
13 addressed to me from Attorney Holford.

14 Q What's the date on it?

15 A It is a list of the Defendants' trial  
16 experts and copies on what information on them I have  
17 been provided.

18 MR. RILEY: Doug, I will just  
19 read into the record what was attached  
20 to it so that we will have it.

21 MR. HOLFORD: Sure.

22 (By Mr. Riley)

23 Q First of all, we have the expert report and  
24 C.V. of Dr. Breeden, the expert report and C.V. of  
25 Dr. Hays, the expert report and C.V. of Dr. Lumpkin.

1 We have the letter from Dr. Rupp to Mr. Sheffler of  
2 Chadbourne & Parke dated October 27th, 1992. We have  
3 the expert report and C.V. of Dr. David Schneider.  
4 We have the C.V. of Dr. William Tedford. And then we  
5 have Supplemental Interrogatory Responses, I believe,  
6 from Reynolds. The first page is missing, but they  
7 contain summaries of the testimony of Drs. Bertino,  
8 Hudson, Ettling, Richetto, Phelan, Neimer, Selke,  
9 Wecker, Klein, MacGregor, Schecter, Thomas, Simmons,  
10 Townsend, and Iauco.

11 And then the last document here is a  
12 one-page document and it just lists Dr. Pizzo and  
13 Dr. Glenn and it contains a summary of their expected  
14 testimony.

15 MR. RILEY: Is that right, Doug?

16 Those were the attachments? Have I  
17 identified them correctly?

18 MR. HOLFORD: I am satisfied you  
19 identified them correctly, yes.

20 (By Mr. Riley)

21 Q Did you ever have any discussion with  
22 Mr. Holford about any of these materials?

23 A I don't believe so, no.

24 Q The next material that's in this file  
25 folder is a paper from JAMA dated June 26th, 1987.

1 It is titled: "Is Smoking Decision an Informed  
2 Choice?" It is by Howard Levanthal, Kathleen Glynn,  
3 and Raymond Fleming.

4 The next article is an article titled:  
5 "The Tobacco Institute: Helping Youth Say 'Yes' to  
6 Tobacco." It is by Joseph DiFranza and Tim McAfee.  
7 It is from the Journal of Family Practice, Volume 34,  
8 No. 6; and the date is 1992.

9 The next item in here is a report from the  
10 "Morbidity and Mortality Weekly Report" dated July  
11 10th, 1992. And it is entitled: "Accessibility of  
12 Cigarettes to Youths Aged 12-17 Years - United  
13 States, 1989."

14 We have here a publication entitled:  
15 "Recent Trends in Adolescent Smoking, Smoking Uptake  
16 Correlates, and Expectations about the Future." It  
17 is by Abigail Moss and Karen Allen and others from a  
18 publication called "Advanced Data," No. 221. The  
19 date is December 2nd, 1992; and it is from the Vital  
20 and Health Statistics of the Center for Disease  
21 Control and Prevention.

22 We also have a document called: "Special  
23 Report from the American Council on Science and  
24 Health." It is called: "Marketing Cigarettes to  
25 Kids" and is written by Stuart Lane.

1 IDENTIFICATION PURPOSES. SAME WILL BE  
2 FOUND AT THE CONCLUSION OF THIS  
3 DEPOSITION. THE PROCEEDINGS  
4 THEREAFTER RESUMED AS FOLLOWS:)

5  
6 (By Mr. Riley)

7 Q Doctor, let me just hand you what the  
8 reporter has marked as Exhibits 4 through 8  
9 (Tendering). Would you just confirm for me, sir,  
10 that those are the materials that are included in the  
11 materials that Mr. Holford dropped off for you in  
12 January of this year?

13 A (Reviewing documents) Yes, they are.

14 MR. RILEY: And the last item we  
15 have, why don't you mark that as 9.

16  
17 (WHEREUPON, KNOX EXHIBIT NO. 9  
18 WAS MARKED FOR IDENTIFICATION  
19 PURPOSES. SAME WILL BE FOUND AT THE  
20 CONCLUSION OF THIS DEPOSITION.)

21  
22 (By Mr. Riley)

23 Q And isn't it correct, sir, that Exhibit 9  
24 also is included in the materials that Holford  
25 dropped off for you?

1 A Yes.

2 Q Attached to that was two booklets. One is  
3 entitled: "Helping Youth Decide." And the other is  
4 in Spanish. The first one is Bates Nos. T200000  
5 through T200023, and the one that's in Spanish is  
6 T200026 through the T200049.

7 Now, have we identified all the materials,  
8 sir, that Mr. Holford delivered to you in January of  
9 this year?

10 A Yes, I believe this is all of the material.

11 Q Have you ever received any other material  
12 from Mr. Holford in connection with this case other  
13 than this material?

14 A No, I think this is it.

15 Q Prior to receiving this material from  
16 Mr. Holford, had you seen any of it before?

17 A I don't believe so.

18 Q Prior to the time you received this  
19 material from Mr. Holford, had you ever reviewed, had  
20 you ever seen any studies dealing with cigarette  
21 advertising?

22 A I believe I may have come across some in  
23 some medical journals. The JAMA article you  
24 mentioned - I think I recollect seeing that before  
25 and hearing some discussions about that.

1 Q The JAMA article that's ---

2 A (Interrupting) Yes, I take that back.

3 Q Which one are you referring to? Here it is  
4 (Tendering). Is this the one?

5 A Yes, this one looks somewhat familiar to  
6 me.

7 Q What's the date on that?

8 A June 26th, 1987.

9 Q You think you may have seen that one before  
10 Mr. Holford dropped it off?

11 A Yes.

12 Q Other than that one article, prior to the  
13 time Mr. Holford dropped these materials off to you,  
14 do you recall seeing any other studies or papers or  
15 articles dealing with the subject of cigarette  
16 advertising; and by that, I mean scientific papers?

17 MR. HOLFORD: Mr. Riley, to be  
18 fair, I think there may be another  
19 JAMA article in there; so, I think you  
20 can refer to it.

21 MR. BIERSTEKER: You can look,  
22 but I don't see it.

23 MR. HOLFORD: I'm sorry.

24 A You are asking me had I ever seen any  
25 studies? I could have seen a lot of studies. I

1 mean, I can't recollect any in particular; but I  
2 think I have seen some studies on advertising and  
3 references to advertising and how it affects children  
4 and people's perceptions.

5 Q Do you recall having made a review of those  
6 studies prior to the visit that you received from  
7 Mr. Holford earlier this year?

8 A No.

9 Q Is it correct that prior to the visit you  
10 received from Mr. Holford this year, you never made a  
11 review of the scientific literature with respect to  
12 cigarette advertising?

13 A No.

14 Q That's not correct, or you never did such a  
15 review?

16 A No, I never did such a review.

17 Q Is it correct that since Mr. Holford's  
18 visit in January of this year, you have never made  
19 your own review of the scientific literature  
20 regarding cigarette advertising? Is that fair to  
21 say?

22 A That's correct, yes.

23 Q Can you identify for me any of the papers  
24 you may have seen in the past with respect to  
25 cigarette advertising? You said you may have seen

1       some. Do you recall any in particular?

2       A           I just have recollections. I certainly  
3       couldn't cite a reference or a journal article for  
4       you.

5       Q           Do you remember the conclusions of any of  
6       those studies; in other words, the methodology used?

7       A           No. No, I don't.

8       Q           Can you tell us, sir, what you and  
9       Mr. Holford talked about when you had this January  
10      meeting at your office?

11      A           If I recollect, he gave me some background  
12      information on Mr. Allgood, how he got -- I asked him  
13      how he got involved in the case.

14      Q           How Mr. Holford had gotten involved in the  
15      case?

16      A           How Mr. Holford had gotten involved in the  
17      case, that's correct. And I think there was some  
18      general discussion about some other cases involving  
19      tobacco companies and suits of this type. He gave me  
20      the articles and that sort of thing. I think he  
21      might have gone through some of those.

22      Q           Have you ever discussed any of these  
23      articles with Mr. Holford?

24      A           No.

25      Q           You said that he gave you some background

1 on Mr. Allgood. What was the background that he gave  
2 you?

3 A Basically it is pretty much what's here in  
4 this Exhibit No. 2. I think he gave a brief synopsis  
5 of Mr. Allgood's life and the depositions filed is  
6 basically what he told me.

7 Q Other than what's reflected in Exhibit  
8 No. 2, do you know anything else about Mr. Allgood?

9 A I don't think so, no.

10 Q You have not reviewed any of the  
11 depositions in this case yourself?

12 A No.

13 Q Mr. Holford hasn't told you what the  
14 deposition testimony has been?

15 A I don't believe so, no.

16 Q You have not reviewed any records in this  
17 case - medical records or employment records or  
18 anything like that?

19 A No, I have not.

20 Q You said that you and Mr. Holford also  
21 discussed other cases involving cigarette companies.  
22 Would you tell me what was said with respect to that  
23 subject.

24 A Just that there were, I guess, some other  
25 cases. I don't know if any of that had these

1 particular issues in it, but that I think the tobacco  
2 companies have been pretty successful in defending  
3 these cases.

4 Q Did you and Mr. Holford talk about why the  
5 companies had been successful in defending these  
6 cases?

7 A I can't recall any particular. I suppose  
8 that -- I can't remember any particulars we talked  
9 about that.

10 Q Can you recall anything else that you and  
11 Mr. Holford talked about in this January meeting this  
12 year in your office?

13 A I can't recall anything at this moment, no.

14 Q After this January meeting, what was the  
15 next time you had any contact with Mr. Holford?

16 A There was - I think he sent me -- I got a  
17 copy of the Subpoena, I think, from your law firm and  
18 it had an attachment and he told me to call if I had  
19 any questions about that. He told my secretary to  
20 call if I had any questions about that.

21 And then I saw him last night.

22 Q So, since your January meeting, there has  
23 been two occasions where you have had contact with  
24 Mr. Holford. The first is when he sent you the  
25 Subpoena, correct?

1           A           That was -- I didn't talk with him  
2 personally. If that's contact, yes.

3           Q           The second time was last night?

4           A           Yes.

5           Q           Did you meet with Mr. Holford in person  
6 last night?

7           A           Yes.

8           Q           And for how long did you meet?

9           A           I would say approximately 45 minutes to an  
10 hour.

11          Q           Where did you meet?

12          A           At my office.

13          Q           What did you talk about with him?

14          A           He asked me basically if I had any  
15 questions about, you know, what would go on here  
16 today. He had asked me if I had been deposed before  
17 or had any experience in depositions before.

18          Q           Anything else?

19          A           He told me you guys were very good and that  
20 you would probably ask real tough questions and that  
21 you would probably have a list of questions, that you  
22 would probably go real fast, that you will be trying  
23 to maybe try to make me look bad.

24                   MR. CRUSE: Do you think

25                   Mr. Riley has been real good?

1 MR. RILEY: These guys are going  
2 to take a vote on that.

3 (By Mr. Riley)

4 Q Did he tell you what any of the questions  
5 were that you might be asked?

6 A He didn't know for sure. He would -- He  
7 said they would probably ask me questions about the  
8 opinions that were sought.

9 Q Did he say anything else?

10 A No, I don't think he said anything  
11 specifically about what questions he thought you  
12 might ask.

13 Q Did you and he talk about anything else?

14 A Well, I asked him what would be, you know,  
15 the parameters of the questions asked me about that  
16 because I was only prepared to talk about those  
17 things that were in my area of expertise and the  
18 opinions stated here.

19 Q You told Mr. Holford that you could only  
20 discuss the matters that are identified in the  
21 exhibit ---

22 A (Interrupting) Yes, I was concerned ---

23 Q (Interrupting) Let me finish the question  
24 so that we will have a clear record, okay?

25 You told Mr. Holford that you could only

1       testify as to the matters identified in Exhibit  
2       No. 1?

3                       MR. HOLFORD:  Objection.

4                       Mischaracterizing testimony.

5       A               I think you have got it over there  
6       (Indicating).  I have Exhibit 2.

7       Q               You told Mr. Holford you could only testify  
8       as to the matters set out in Exhibit No. 1, correct?

9       A               Yes.

10      Q               You were not an expert in any other  
11      matters; is that correct?

12      A               Yes.

13      Q               Did you have any other discussion with  
14      Mr. Holford last night?  Did you talk about anything  
15      else?

16      A               I guess I talked, you know, again, about  
17      the scope of this because I told him I knew nothing  
18      about - we had not discussed anything about the case;  
19      and surely there wasn't an expectation that I would  
20      know anything in particular about, you know,  
21      Mr. Allgood and that sort of thing.  He told me, no,  
22      that was not an expectation.

23      Q               He told you that he does not expect you to  
24      know anything about Mr. Allgood?

25      A               Well, I asked him if they had the

1 expectation of me that I would know all about his  
2 history and his case and, you know, all the things  
3 about that. And he told me that, no, I would not  
4 because I had not had any information about that.

5 Q He told you that that would not be  
6 pertinent to your opinion in this case, your  
7 testimony in this case? Is that what he told you?

8 A Yes. I don't know if he told me in those  
9 exact words. He told me that I wouldn't be expected  
10 to know any of that.

11 Q But it was certainly your understanding  
12 that he believed that you didn't really need to know  
13 the details of Mr. Allgood's case in order to testify  
14 at the trial, correct?

15 A Yes.

16 Q Did you and Mr. Holford review any  
17 documents last night?

18 A No.

19 MR. RILEY: Would you mark that  
20 please.

21 A I should say other than what's listed here  
22 in Exhibit 1, my primary opinions.

23 (By Mr. Riley)

24 Q You already told us what you and he had  
25 said with respect to that, right?

1 A Yes.

2

3 (WHEREUPON, KNOX EXHIBIT NO. 10  
4 WAS MARKED FOR IDENTIFICATION  
5 PURPOSES. SAME WILL BE FOUND AT THE  
6 CONCLUSION OF THIS DEPOSITION.)  
7

7

8 (By Mr. Riley)

9 Q The court reporter has just marked Exhibit  
10 No. 10; and that's the Subpoena you referred to a  
11 little while ago, isn't it?

12 A Yes.

13 Q Did you look for the materials that are  
14 called for in that Subpoena?

15 A Yes.

16 Q To the best of your ability, you have  
17 produced everything in your possession or custody  
18 that's called for by the Subpoena; is that right?

19 A Yes.

20 Q You don't have any other materials that  
21 might be called for by that Subpoena; is that right?

22 A No.

23 Q It is right that you don't have any other  
24 materials?

25 A Right.

1 Q Let me ask you this just so that we will  
2 have a clear record on this: Do you have any other  
3 materials that may be called for by the Subpoena  
4 other than what you have produced here today?

5 A No.

6 Q Mr. Holford has explained to you what's  
7 called for by the Subpoena?

8 A Yes, he has.

9 Q Do you have any other materials other than  
10 what you have brought here today that may relate to  
11 Sam Allgood?

12 A No.

13 Q Do you have any other materials other than  
14 what you have brought here today that bear in any way  
15 on your testimony in this case?

16 A Well, I may have books. I'm a  
17 psychiatrist, and I may have books in my possession  
18 that may have talked about that that I haven't  
19 reviewed or don't know exist.

20 Q Other than textbooks, do you have any other  
21 documents?

22 A No. Well, there was a videotape he gave  
23 me; but I did not review that and I forgot to bring  
24 it. I don't even know what it was about.

25 MR. RILEY: Doug, what was it

1 about?

2 A You want to know what it was? I think it  
3 was a TI piece on parent counseling on youth or  
4 something.

5 Q Have you relied on that videotape at all in  
6 forming your opinions in this case?

7 A I have not seen it.

8 MR. CRUSE: Where is it?

9 Q Is it in your office now?

10 A It is at my home. I just forgot to bring  
11 it.

12 MR. RILEY: Would you mark this,  
13 please.

14  
15 (WHEREUPON, KNOX EXHIBIT NO. 11  
16 WAS MARKED FOR IDENTIFICATION  
17 PURPOSES. SAME WILL BE FOUND AT THE  
18 CONCLUSION OF THIS DEPOSITION.)

19  
20 (By Mr. Riley)

21 Q The court reporter has just handed you  
22 what's been marked as Exhibit No. 11. Would you just  
23 identify that, please.

24 A (Reviewing document) It is a copy of my  
25 C.V.

1 Q Is that C.V. complete and accurate?

2 A Yes, it is.

3 Q Do you have any articles or publications in  
4 progress that are not listed on your C.V.?

5 A No, I don't.

6 Q What medical journals do you subscribe to?

7 A The "Journal of Adolescent and Child  
8 Psychiatry, the "Archives of General Psychiatry,"  
9 "Hospital and Community Psychiatry," and the National  
10 Medical Association Journal."

11 Q Are there others that you read on any  
12 regular basis?

13 A I should read, but I don't read on a  
14 regular basis.

15 Q What are the ones that you should read, but  
16 that you don't read?

17 A Probably the "New England Journal of  
18 Medicine."

19 Q Any others?

20 A That would be the only other one that I can  
21 think of.

22 Q What about JAMA?

23 A JAMA, perhaps, yes.

24 Q Why do you think that you should read those  
25 two?

1           A           Those are just the standard articles of the  
2           medical profession. They don't pertain always to  
3           psychiatry, but there is a lot of reference to them  
4           and news stories, journal articles, that sort of  
5           thing.

6           Q           Are there any other journals that you  
7           regard as authoritative and reliable in your field -  
8           in the field of psychiatry?

9           A           Gosh, there are a number of journals that  
10          are authoritative and reliable.

11          Q           Well, would you identify them for me,  
12          please.

13          A           "Lancet," "Journal of Orthopsychiatry."  
14          Oh, the "American Journal of Psychiatry. I forgot.  
15          That's another main one that I subscribe to. It is a  
16          green journal.

17          Q           Are there any others that you think are  
18          authoritative and reliable?

19          A           There are others. I can't really think of  
20          them all at this point.

21          Q           Would you identify for me, please, the  
22          leading textbooks on teen or adolescent psychiatry.

23          A           Well, the COMPREHENSIVE TEXTBOOK OF  
24          PSYCHIATRY is the next book in my field, and it has a  
25          section on adolescent child psychiatry.

1 Q First of all, let's do it this way: Are  
2 there any textbooks that are related specifically to  
3 teen or adolescent psychiatry?

4 A There is the "Journal of Adolescent and  
5 Child Psychiatry."

6 Q Textbooks, I am talking about now.

7 A Textbooks, there are the standard books by  
8 Eric Ericson on adolescent development, of Piaget's  
9 cognitive theories. There is a textbook by Blos,  
10 B-l-o-s. I can't remember the name of it, but it is  
11 a classic book on adolescent psychiatry - Peter Blos.

12 Q Any others you can think of?

13 A I am sure there are probably important ones  
14 I am forgetting. I just can't think of them. They  
15 don't come to mind right now.

16 Q What about just basic texts in the field of  
17 psychiatry in general - not limited, but just the  
18 field generally? What do you consider the leading  
19 textbooks?

20 A Well, the leading one would be the  
21 Kaplan/Sadock book, COMPREHENSIVE TEXTBOOK OF  
22 PSYCHIATRY, which is a standard for the profession.

23 Q Who are the authors? I'm sorry.

24 A Kaplan, Friedman, and Sadock.

25 Q What are the other basic psychiatry texts?

1           A           After you get that one, there are a number  
2           of books that deal with particular subjects in  
3           psychiatry. That's considered the standard textbook.  
4           I mean, there may be others that I am not familiar  
5           with. There are a number of books that deal with  
6           substance abuse. There are books that deal with  
7           neuropsychiatry. I really can't think of the names  
8           and titles for you right at this moment.

9           Q           What are the leading textbooks on substance  
10          abuse?

11          A           I can't think of any leading. Like I said,  
12          there are a number of textbooks. What would be  
13          leading, I have A HANDBOOK OF SUBSTANCE ABUSE  
14          DISORDERS that's put out by the American Psychiatric  
15          Association. The American Psychiatric Association  
16          each year puts out a comprehensive review of  
17          psychiatry that looks at various topics. I think two  
18          years ago they had one - a section that was on  
19          substance abuse disorders, which might be considered  
20          leading at this point in the latest research and  
21          findings.

22          Q           That's the only one that comes to mind?

23          A           That's the only one that comes. There may  
24          be others. I am just drawing a blank at this point.

25          Q           You don't regularly refer to those

1 textbooks; is that right?

2 A Not generally. Sometimes there may be, if  
3 I have an adult or a child who is in for substance  
4 abuse and there is some unusual drug that they are  
5 on, I may refer to it to see how they might be best  
6 detoxified from that material.

7 Q Have you ever read any of the Surgeon  
8 General's reports on smoking and health?

9 A I don't know if I read anything in its  
10 entirety. I may have seen something and read a  
11 synopsis. I may have read -- I don't know if I have  
12 ever read the entire report. I don't think I have.  
13 I may have read a synopsis or scanned an article or a  
14 report.

15 Q Have you ever sat down and actually picked  
16 up a report of the Surgeon General on smoking and  
17 health to read any portion of it?

18 A I don't know if I have had the actual  
19 report. I have read things that refer to it from the  
20 newspaper articles.

21 Q In other words, you have read summaries and  
22 reviews of the report; but you have not read the  
23 reports themselves?

24 A Right.

25 Q I take it you don't rely on the Surgeon

1 General's reports as part of your practice?

2 A No, I don't rely on it, no.

3 Q You have never consulted any Surgeon  
4 General's report appearing in April or conducting any  
5 research; is that right?

6 A No.

7 Q You have never looked at one of the Surgeon  
8 General's reports in preparing a paper, have you?

9 A You mean the Surgeon General's report on  
10 alcohol and tobacco use?

11 Q On tobacco - on smoking health.

12 A Oh, no.

13 Q Would you define the field of psychiatry  
14 for me, please.

15 A Psychiatry is a specialty branch of  
16 medicine that deals with the diagnosis and treatment  
17 of behavioral or emotional disorders.

18 Q Are there subcategories in that field?

19 A Yes.

20 Q What are the main subcategories?

21 A There are adolescent and child  
22 psychiatrists, there are general adult psychiatrists,  
23 there are neuropsychiatrists. Those are the main  
24 divisions.

25 Q Do you have any specialization in any

1 subcategory in the field of psychiatry?

2 A No. I am board certified in general  
3 psychiatry.

4 Q Are there other board certifications in the  
5 field of psychiatry?

6 A Yes.

7 Q What are the other available board  
8 certifications in the field of psychiatry?

9 A You can be board certified in child and  
10 adolescent psychiatry.

11 Q You are not board certified in child or  
12 adolescent psychiatry, correct?

13 A Correct.

14 Q Have you ever taken the exam to be board  
15 certified in adolescent or child psychiatry?

16 A No.

17 Q What was your undergraduate degree in?

18 A Premed African-American studies.

19 Q African-American studies was your major?

20 A That was my major, yes.

21 Q Did you ever take any courses or receive  
22 any instructions at any point in your academic career  
23 in communications?

24 A Yes.

25 Q What was that? And when I say,

1 "communications," I mean the field of mass  
2 communications.

3 A No, not in mass communications.

4 Q Tell me what you are referring to when you  
5 said you had training in communications.

6 A Well, I include in that public speaking. I  
7 had a class in oral interpretation in college.

8 Q You wouldn't hold yourself out to be an  
9 expert in the field of mass communications, would  
10 you?

11 A No.

12 Q Have you ever had any academic training in  
13 the field of business, generally?

14 A No.

15 Q What about in the field of marketing?

16 A No.

17 Q What about in the field of advertising?

18 A No.

19 Q What about the field of consumer behavior?

20 A No.

21 Q You wouldn't hold yourself out to be an  
22 expert in any of those fields; is that correct?

23 A No. That is correct. I'm sorry.

24 Q When you were a student, what psychiatry  
25 textbooks did you use?

1           A           Kaplan, Friedman, and Sadock, THE  
2           COMPREHENSIVE TEXTBOOK OF PSYCHIATRY, PSYCHIATRIC  
3           DIAGNOSIS, PSYCHOPHARMACOLOGY.

4           Q           Who were the authors on those texts?

5           A           Friedman and Goodman, I believe, was the  
6           author of -- I'm sorry. Samuel Guze was the author  
7           of PSYCHIATRIC DIAGNOSIS. HANDBOOK OF  
8           PSYCHOPHARMACOLOGY - I want to say it was Appleton,  
9           but I can't be certain about that.

10          Q           Any other psychiatry textbooks that you  
11          used as a student that you can recall now?

12          A           You have to remember that's a long time  
13          ago. I think those were the major ones. There may  
14          have been some other ones that I used, but those were  
15          the major ones.

16          Q           Did you ever take a course on teen or  
17          adolescent psychiatry?

18          A           Yes.

19          Q           When was that?

20          A           In medical school and in doing my  
21          psychiatric residency.

22          Q           Do you remember the name of the teacher?

23                      First of all, how many courses on teen or  
24          adolescent psychiatry did you take?

25          A           In medical school we had a first-year

1 course dealing with growth and development, which  
2 dealt with child and adolescent behavior. Doing my  
3 clinical rotations I rotated through the Outpatient  
4 Psychiatry Clinic at the University of Wisconsin, and  
5 we had seminars and courses on adolescent and child  
6 psychiatry, as well as actual clinical cases.

7 During my residency there were a number of  
8 seminars including a rotation, I think, a four-month  
9 rotation on the child and adolescent unit at The  
10 University of Texas medical schools along with  
11 various seminars that looked at the major theorists  
12 in the field of adolescent and child behavior  
13 psychopharmacology, of mental disorders of  
14 adolescents and children. A number of grand rounds  
15 presentations and case presentations, I have been  
16 involved with that to present cases of children.

17 Q Do you remember the names of any of the  
18 instructors or professors that you had in any of  
19 these courses?

20 A Uh-huh. Yes, I do.

21 Q Who were they?

22 A Dr. Lorna Benjamin was the professor of  
23 psychology at the University of Wisconsin who taught  
24 the course.

25 Q Lorna Benjamin?

1 A Lorna Benjamin, yes.

2 Q Any other professors or instructors that  
3 you can recall in that field?

4 A She is the one that stands out in my mind.  
5 There were others. I can't remember. Some of them  
6 were, like, residents who were rotating through  
7 psychiatry who might have taught a seminar.

8 In residency training, Dr. Betty  
9 Pfefferbaum was the chairman of the Child Division.  
10 She was an instructor.

11 Dr. Patricia Butler, who is currently, I  
12 think, the head of - I don't know if she is the head,  
13 but she's on the child psychiatry faculty at Baylor  
14 College of Medicine - was an instructor.

15 Dr. Thomas Hamlin, who is an adolescent  
16 psychiatrist in private practice now in Houston, was  
17 an instructor.

18 I think Dr. Richard Pesikoff was a child  
19 psychiatrist and may have given some guest lectures.

20 Q Do you happen to remember any of the  
21 textbooks that you may have used that dealt with  
22 adolescent or teen psychiatry?

23 A I can't recall. The majority may have been  
24 articles that were out at the time and also  
25 references from the major textbooks that I mentioned

1 before, the Friedman and Sadock COMPREHENSIVE  
2 TEXTBOOK OF PSYCHIATRY. There may have been others,  
3 but I just can't recall.

4 Q Now, I understand that you were an  
5 assistant professor of psychiatry at Baylor from 1982  
6 to '86; is that right?

7 A Yes.

8 Q What courses did you teach?

9 A I was a faculty member in the Community and  
10 Social Psychiatry Department.

11 Q Did you teach courses?

12 A During that part of medical school, we had  
13 seminars; and my main duties were to train medical  
14 students who were going through their psychiatry  
15 rotation and their clinical rotation. But we did  
16 have seminars on cultural aspects of psychiatry that  
17 I participated in.

18 Q What do you mean by "cultural aspects of  
19 psychiatry"?

20 A Well, having residents be attuned to the  
21 different cultural factors that may influence a  
22 patient's presentation, especially in treating  
23 patients from cultures other than your own.

24 Q Was any of your work as a teacher at Baylor  
25 pertinent to the subject of cigarette advertising?

1 A No.

2 Q Were any of the courses that you had when  
3 you were in training pertinent to the subject of  
4 cigarette advertising?

5 A I can't recall anything specifically in  
6 medical school. As an undergraduate, I had some  
7 courses that talked about that.

8 Q What were the courses that you had in  
9 undergraduate school?

10 A One communications course dealt with  
11 advertising and the messages in advertising.

12 Q That was just one course?

13 A I think that might have been one or two  
14 courses.

15 Q Other than those one or two courses, you  
16 have never taken any course that had anything to do  
17 with cigarette advertising; is that right?

18 A That's right.

19 Q Now, from 1986 to 1987, you were assistant  
20 professor at The University of Texas Medical Center  
21 in Houston, right?

22 A Yes.

23 Q And what courses did you teach there?

24 A There I did a seminar for third-year  
25 residents on personality disorders. I was the chief

1 of Adult Services at the Harris County Psychiatric  
2 Center, and my duty was to train residents and  
3 medical students in psychiatry.

4 Q Was any of your work at The University of  
5 Texas Medical School in Houston pertinent to the  
6 subject of cigarette advertising?

7 A No, I don't believe so.

8 Q Have you ever had any work experience that  
9 is pertinent to the subject of cigarette advertising?

10 A Not directly with cigarette advertising.

11 Q What do you mean by "not directly"?

12 A Well, we had discussions about nicotine  
13 dependence, whether or not we should have a smoking  
14 policy to ban smoking on our adolescent units of  
15 children who smoked and also on the adult unit,  
16 making that a hospital-wide policy.

17 Q First, I really asked you about cigarette  
18 advertising, not so much about nicotine dependence.  
19 Let me ask you the question again.

20 Is any of your work experience pertinent to  
21 the subject of cigarette advertising?

22 A No.

23 Q Now, you said that you had been engaged in  
24 some discussions on whether smoking should be banned  
25 on adolescent units, correct?

1 A Yes.

2 Q Now, where were you when you had those  
3 discussions - which of the institutions that you have  
4 been affiliated with?

5 A Well, that was at UT Hermann on the Child  
6 and Adolescent Psychiatry Unit. Often children would  
7 come in who smoked, and that became an issue as to  
8 whether or not they would be allowed to smoke and  
9 also a treatment issue if they would make that an  
10 issue. Subsequent to that, it has come after that  
11 period of time.

12 Q You said you first had these discussions in  
13 '86 or '87 when you were at the Medical Center in  
14 Houston at UT?

15 A At UT, yes, at UT. That was when I was an  
16 adult; but prior to that in medical school, I  
17 mentioned I was a resident in adolescent and child  
18 psychiatry in the unit there. That was prior while I  
19 was a resident in training.

20 Q Was smoking by teenagers banned at any  
21 institution that you have been affiliated with?

22 A Ever?

23 Q Yes.

24 A Yes.

25 Q Where was it banned?

1           A           It is banned at most adolescent units in  
2           the city where they have adolescent - that they are  
3           not allowed ---

4           Q           (Interrupting) Were those bans put into  
5           effect recently?

6           A           I would say for adolescents they were put  
7           into effect probably years ago.

8           Q           What do you mean by "years ago"?

9           A           When I was a resident - a medical resident.  
10          I'm sorry.

11          Q           Did you support those bans?

12          A           For adolescents, yes.

13          Q           Do you support bans on smoking by adult  
14          patients? And I am talking about, of course, in a  
15          hospital setting.

16          A           I personally, yes, I do support a ban.

17          Q           Are there psychiatrists who disagree with  
18          your views on that?

19          A           I am sure there are.

20          Q           Well, do you recall that there were  
21          discussions about whether smoking by adolescents  
22          should be banned or not?

23          A           Not about adolescents. I think there was  
24          general agreement that they should not - for the  
25          majority of psychiatric patients, that they should

1 not be allowed to smoke.

2 Q There has been debate, then, I take it,  
3 over whether smoking should be allowed by adults or  
4 not in the hospital setting?

5 A Yes.

6 Q You have never taught a course that dealt  
7 in any way with advertising; is that right?

8 A No.

9 Q You have never taught a course that dealt  
10 with adolescent or teen psychiatry; is that right?

11 A (No response)

12 Q Let me back up and ask you a question  
13 again: Have you ever taught a course that dealt with  
14 cigarette advertising?

15 A No.

16 Q Have you ever taught a course that dealt  
17 with adolescent or teen psychiatry?

18 A Yes.

19 Q Where was that?

20 A Not a course. As a resident, I would have  
21 to supervise medical students on the Adolescent Unit.  
22 We would talk about those issues. As a faculty  
23 member, that may have come up with residents in  
24 regards to some other issue. I never really had a  
25 course particular that was in that field.

1 Q Have you ever taught a course that dealt in  
2 any way with the subject of dependence?

3 A When you say, "taught a course," a lot of  
4 my experience has been with the clinical setting.

5 Q Has that subject come up in the clinical  
6 setting - the subject of dependence?

7 A Yes, when I was in those settings, yes, it  
8 did come up.

9 Q Why did you leave teaching?

10 A I guess there were a number of reasons. I  
11 guess, really, frustration at a junior faculty level  
12 in medical schools of just dealing with departmental  
13 politics. I wanted to be more independent. There  
14 was certainly an opportunity to be your own boss, to  
15 make more money as a private practitioner and  
16 psychiatrist. So, those were some of the factors  
17 that led to my leaving.

18 Q You were in practice for two years at  
19 Post Oak Psychiatry Associates?

20 A Yes.

21 Q How many psychiatrists were in that  
22 practice?

23 A I think there were ten psychiatrists in  
24 that group.

25 Q Were you responsible for patient care while

1       you were with Post Oak?

2       A           Yes, I was.

3       Q           What kinds of patients did you have  
4       responsibility for?

5       A           Oh, I saw all kinds of patients. I had  
6       adolescents, adults.

7       Q           Let me ask you this: What percentage of  
8       your patients were adolescents?

9       A           When I was at Post Oak, I would say maybe  
10      30 percent, 40 percent.

11      Q           What were the conditions for which you  
12      treated those adolescents?

13      A           Conduct disorder, depression, substance  
14      abuse, schizophrenia, manic depressive illness.

15      Q           What kinds of substance abuse problems did  
16      you treat adolescents for while you were at Post Oak?

17      A           Mainly alcohol, marijuana, a few cocaine.  
18      Some were on acid, LSD, hallucinogens.

19      Q           Is that it?

20      A           The range - Quaaludes, downers, some  
21      amphetamine abusers.

22      Q           You worked at Stafford Meadows for three  
23      years; is that right - from '89 to '92?

24      A           Yes, that's correct.

25      Q           I think if you want to take a look at your

1 C.V., will that help?

2 A I thought it was two. Maybe it was three,  
3 yes.

4 Q Did you have responsibility for patient  
5 care at Stafford Meadows?

6 A Yes.

7 Q And you were the unit chief for Adult  
8 Services at Stafford Meadows, correct?

9 A That's correct.

10 Q So, I take it, then, that you did not have  
11 any responsibility for adolescents while you were at  
12 Stafford Meadows; is that right?

13 A That's not correct, no.

14 Q Tell me what percentage of patients that  
15 you were responsible for at Stafford Meadows were  
16 adolescents.

17 A Probably 30 percent, I would say. I would  
18 have to guess off the top of my head.

19 Q What conditions did you treat the  
20 adolescents for while you were at Stafford Meadows?

21 A General conditions - conduct disorders, the  
22 affective disorders, chemical dependency problems.

23 Q When you say, "chemical dependency," are we  
24 talking about the same kinds of substance abuses you  
25 referred to when you were describing your practice at

1 Post Oak?

2 A Yes.

3 Q Now, you have been at AMI Twelve Oaks?

4 A Yes.

5 Q First, let me back up and ask you a  
6 question: How many psychiatrists were on staff at  
7 Stafford Meadows?

8 A I couldn't tell you an exact. I would say  
9 maybe 20 or 30.

10 Q Now, let me ask you about AMI Twelve Oaks.  
11 You have been there since 1992, correct?

12 A That's correct.

13 Q Do you treat patients at Twelve Oaks?

14 A Yes.

15 Q Do you treat adolescents at Twelve Oaks?

16 A Initially I did. When I first went there,  
17 there was an adolescent unit. That has since -- I  
18 think it has been closed for about a year, a year and  
19 a half now.

20 Q Why did it close?

21 A Well, the hospital administration felt that  
22 the reimbursement in adolescent - in patient care was  
23 just not there. They felt it was not generating  
24 enough revenue for the hospital to make it worthwhile  
25 with all the personnel costs.

1 Q And when did it shut down?

2 A I think July of '92, I would say.

3 Q So, since July of 1992, you have not been  
4 involved in the care of any adolescent patients; is  
5 that right?

6 A No, that's not correct.

7 Q Where have you treated adolescent patients  
8 since July, '92?

9 A I have a private practice. Twelve Oaks is  
10 a consultant administrative position. I admit to  
11 other hospitals in their adolescent unit. I see them  
12 in my private practice.

13 Q When you did treat adolescents at  
14 Twelve Oaks, what percentage of your patients were  
15 adolescents and what percentage were adults?

16 A When I was at AMI Twelve Oaks, probably  
17 70 percent of my patients were adolescents. That was  
18 their biggest unit, and they were just beginning a  
19 small adult unit at that time.

20 Q When did you start there at AMI Twelve Oaks -  
21 what month?

22 A I started there in January of '92.

23 Q And when you started there in January of  
24 '92, 70 percent of their patients were adolescents?

25 A Yes.

1 Q In July of '92, they stopped treating  
2 adolescents entirely?

3 A No. You asked me what percentage of my  
4 patients were adolescents.

5 Q Okay. I'm sorry.

6 A Okay. They did not have 70 percent of  
7 their patients that were adolescents. They would  
8 have gone out of business, I would imagine.

9 Q I'm sorry. I misunderstood you. When you  
10 were at AMI Twelve Oaks and you treated adolescents,  
11 what did you treat the adolescents for?

12 A The same conditions I mentioned before -  
13 conduct disorders. The affective disorders include  
14 depression, schizophrenia, manic depressive illness,  
15 chemical dependency issues.

16 Q Again, when you say, "chemical dependency,"  
17 you are referring to the same substances as you have  
18 mentioned before, correct?

19 A Correct.

20 Q How long have you had your private  
21 practice?

22 A I have been in private practice since I  
23 left The University of Texas, which was in July of -  
24 I'm sorry - January, I think, of 1988 -- I'm sorry.  
25 January of 1989 when I left Post Oak Psychiatry. I'm

1       sorry. I am confused. Let me back up.

2               You asked me when did I go into private  
3       practice?

4       Q           I asked you how long you have had your  
5       private practice.

6       A           Oh, I have had my private practice since I  
7       joined Post Oak Psychiatry. I guess that would be  
8       June of 1988 - July of 1988.

9       Q           In other words, in 1989 when you left  
10      Post Oak, you continued to have your own private  
11      practice. It was on your own. It was not affiliated  
12      with Post Oak. Just carried on the practice on your  
13      own?

14      A           That's correct.

15      Q           I think we have already talked about the  
16      time you were at Post Oak and the time you have  
17      treated adolescents there, and you told me about the  
18      chemical - or the substance abuse that you treated  
19      adolescents for there.

20               What about since you left Post Oak, what  
21      percentage of your patients have been adolescents?  
22      And I am referring, now, to your private practice.

23      A           My private practice, it really varies. I  
24      would say anywhere from 20 percent to maybe  
25      40 percent at the most.

1 Q What do you treat adolescents for in your  
2 private practice?

3 A Conduct disorders, opposition or defined  
4 disorders, attention deficit disorder.

5 Q Same kinds of things we have talking about  
6 before?

7 A Same kinds of things we talked about  
8 before.

9 Q Chemical dependence?

10 A Yes.

11 Q When you say, "chemical dependence," again,  
12 we are talking about the same substances you  
13 identified before, correct?

14 A Yes.

15 Q Have you ever treated a teenager or an  
16 adolescent for nicotine dependence?

17 A Not for dependence. Well, I guess I have.  
18 There have been adolescents who have come in and  
19 smoked and the parents didn't want them to smoke and  
20 I have given them patches or Nicorette gum to get  
21 them off of it, but I suppose that was not the  
22 primary cause of the treatment.

23 Q How many times have you done that?

24 A The patches have only been on the market  
25 for a couple of years. I would say a couple of years

1 for that.

2 Nicorette gum has been around for four or  
3 five years. I would say maybe ten times just to pick  
4 out a number.

5 Q Ten times at the most?

6 A Uh-huh.

7 Q You are a consultant for the Harris County  
8 Juvenile Probation Program?

9 A Yes.

10 Q Is any of that work at all pertinent to  
11 cigarette smoking?

12 A No.

13 Q You have done work for Project Action?

14 A Yes.

15 Q Does any of that relate in any way to  
16 cigarette smoking?

17 A No.

18 Q You have been a program service consultant  
19 at St. Joseph Hospital, correct?

20 A Yes.

21 Q Has any of that work dealt in any way with  
22 cigarette smoking?

23 A Again, that was -- I think the issue of  
24 smoking may have come up with patient groups or  
25 patients being allowed to smoke in group or in the

1 hospital, per se.

2 Q Other than the question of whether patients  
3 should be allowed to smoke or not, have you had any  
4 involvement in cigarette smoking in your capacity as  
5 a consultant for St. Joseph Hospital?

6 A No.

7 Q What about your work for the Texas  
8 Department of Corrections. Did any of that deal with  
9 cigarette smoking?

10 A No.

11 Q What about your work for the Social  
12 Security Administration? Has any of that dealt with  
13 cigarette smoking?

14 A No.

15 Q What about your work for the Department of  
16 HHS? You were a psychiatric surveyor for the  
17 Healthcare Financing Administration, right?

18 A Yes.

19 Q Has any of that work dealt with cigarette  
20 smoking in any way?

21 A No.

22 Q I understand that you were offered a NIMH  
23 fellowship in 1981?

24 A Yes.

25 Q And what was the purpose of that

1 fellowship?

2 A The NIMH fellowship was a fellowship from  
3 the National Institute of Mental Health and American  
4 Psychiatric Associations to encourage minority  
5 students' participation in the activities of  
6 primarily the American Psychiatric Association.

7 Q To encourage them to participate in the  
8 activities of the American Psychiatric Association?

9 A Yes, to give them visibility and hopefully  
10 encourage them to join and to be active within that  
11 national organization.

12 Q Did you accept or decline that fellowship?

13 A I declined it.

14 Q Why did you decline it?

15 A Because at that time I had joined the Regan  
16 administration, and there was a stipulation that if I  
17 accepted that fellowship, I would have to agree to  
18 serve an underserved area. And at that time I was in  
19 Houston and my family did not want to move and, so, I  
20 did not want to take the chance of having to be  
21 forced to go somewhere else.

22 Q If I were to ask you to identify a basic  
23 marketing or advertising textbook, could you do that?

24 A No, I don't think so, no.

25 Q What if I asked you to identify leading

1 researchers in the field of advertising or marketing?

2 Could you do that?

3 A No.

4 Q You have no work experience in the field of  
5 advertising, do you?

6 A When you say, "work experience," do you  
7 mean advertise for my practice? You mean ---

8 Q (Interrupting) No. I am talking about  
9 experience in a professional capacity in the field of  
10 advertising.

11 A Oh, no.

12 Q You have never designed or implemented a  
13 marketing or advertising plan, have you?

14 A Well, yes, for promoting my practice. The  
15 hospitals have marketing efforts that I ---

16 Q (Interrupting) You have never been involved  
17 in implementing them, have you?

18 A If you say, "implementing," in the sense  
19 that I sit down with the marketers and we talk about  
20 a strategy and we talk about a plan, I have done  
21 that. I have not ---

22 Q (Interrupting) You have gone to them for  
23 the advice on how to do it, though, right?

24 A And they have come to me for advice.

25 Q Okay. When the hospitals that you have

1       been affiliated with have done marketing plans, you  
2       have hired experts to do that, right?

3       A           They have hired experts, and there have  
4       been people in place who do that for the hospital.

5       Q           But you are not one of those people, are  
6       you?

7       A           No.

8       Q           Have you ever done any work to study the  
9       impact of advertising on brand choice versus overall  
10      utilization of the product for any product?

11      A           Could you state that question again?

12      Q           Sure. Have you ever done any work to study  
13      the impact of advertising either on brand choice or  
14      on overall utilization of the product for any  
15      product?

16      A           Have I done any studying or read any  
17      articles, you mean?

18      Q           Have you done any work? Have you done  
19      anything to do that?

20      A           I may have read some articles on that.

21      Q           Do you recall doing that?

22      A           I can't recall any specifics. I think my  
23      daughter may have had a project in school that I  
24      helped her on with that.

25      Q           Other than the project that your daughter

1 had in school, have you ever done any kind of study  
2 in that field?

3 A Again, I may have some -- I recall reading  
4 some articles - I can't remember when - about those  
5 kinds of things - CONSUMER REPORTS.

6 Q For what products?

7 A There may have been something, I think, in  
8 a CONSUMER REPORT magazine that I get looking at  
9 that.

10 I am not sure how broad of what you are  
11 talking about.

12 Q Have you ever made or done any study to see  
13 whether advertising influences brand selection by  
14 consumers?

15 A No. You mean, a research project or  
16 something of that nature?

17 Q Yes, any kind of formal study of that  
18 issue.

19 A No, no formal study.

20 Q Have you ever made any informal study of  
21 that?

22 A I may have made informal studies of that,  
23 yes.

24 Q Helping your daughter with her school  
25 project?

1           A           School project or maybe just out of general  
2 interest in advertising.

3           Q           You don't recall the products that you  
4 researched, do you?

5           A           No, I don't.

6           Q           Have you ever made a study or reviewed any  
7 literature dealing with the question of whether  
8 advertising may affect the overall demand for a  
9 product - any formal study?

10          A           No.

11          Q           Any informal study of that nature?

12          A           No.

13          Q           For any product? Have you ever done it for  
14 any product?

15          A           No, I don't believe so.

16          Q           You have never authored any articles that  
17 deal with advertising or marketing, have you?

18          A           No.

19          Q           You don't belong to any professional groups  
20 or societies dealing with advertising, do you?

21          A           No.

22          Q           You have never attended any professional  
23 conferences that deal with advertising, have you?

24          A           No.

25          Q           You don't subscribe to any journals that

1 deal with advertising, do you?

2 A No.

3 Q You wouldn't even know the names of any of  
4 the leading advertising or marketing journals, would  
5 you?

6 A I don't believe so, no.

7 Q Do you make it a practice to review or  
8 monitor any literature dealing with advertising or  
9 marketing on any systematic basis?

10 A No.

11 Q Have you ever conducted a study of the  
12 effect of advertising on children or teenagers?

13 A No.

14 Q Have you ever conducted a formal review of  
15 the scientific literature concerning the effect of  
16 advertising on children or teenagers?

17 A Other than what I have read here today from  
18 Mr. Holford, no.

19 Q Other than what Mr. Holford has given you,  
20 you have never done that?

21 A I have never done a systematic study. I  
22 may have reviewed various articles here and there,  
23 but no systematic study of that.

24 Q You have never treated a patient in your  
25 entire career for any condition related to

1 advertising, have you?

2 A Well, actually, I did.

3 Q Tell me about that, then.

4 A I had a patient once who came to me and  
5 said that someone had used her picture without her  
6 knowledge in an advertisement that caused her a lot  
7 of psychological distress, and she was quite  
8 concerned about that and had a lot of problems  
9 dealing with that.

10 Q She felt her privacy had been invaded by  
11 the use of her picture in this advertisement?

12 A Yes.

13 Q Other than that, have you ever treated a  
14 patient for any condition related to advertising?

15 A I don't think so, no.

16 Q You have never given any kind of advice in  
17 your professional capacity to a patient regarding  
18 advertising, have you?

19 A I don't think -- I don't recall, no.

20 Q Do you claim to be able to assess the  
21 effect of advertising on the marketplace?

22 A No.

23 Q And you wouldn't claim to be able to assess  
24 the effect of advertising on any given individual in  
25 the marketplace, would you?

1           A           Well, I could if someone felt that some  
2           advertising - like that patient, per se, who felt the  
3           advertisement was not in her best interest.

4           Sometimes parents ask me about the influence of  
5           television and music on their children and their  
6           behaviors - advertising for that and ---

7           Q           (Interrupting) Would you ---

8                       MR. HOLFORD: (Interrupting) I'm  
9           sorry. Are you finished?

10                      THE WITNESS: No.

11          Q           I didn't mean to interrupt you. Are you  
12          done?

13          A           No. There is lots of talk now about the  
14          problem with violence and teens and how that's  
15          influenced by television, music, advertisement,  
16          advertising companies.

17          Q           I guess maybe it sounded to me like all  
18          those, you were discussing those issues in  
19          generalities and not with respect to any particular  
20          individual.

21                      Am I right or wrong?

22          A           Sometimes they were in generalities.  
23          Sometimes they had to do with an individual.

24          Q           Have you ever in your career had to assess  
25          the impact of advertising on a particular individual?

1 A That in and of itself?

2 Q Yes.

3 A I don't believe so, no.

4 MR. BIERSTEKER: I'm sorry. I  
5 didn't hear the answer.

6 THE WITNESS: No.

7 MR. CRUSE: He said, "No."

8  
9 (AT THIS TIME A BRIEF RECESS WAS  
10 TAKEN, AND THE PROCEEDINGS THEREAFTER  
11 RESUMED AS FOLLOWS:)

12  
13 (By Mr. Riley)

14 Q Have you done everything that you need to  
15 do to be prepared to testify at the trial in this  
16 case?

17 A I am not sure what you consider everything  
18 I needed to do.

19 Q Let me ask you this: Are you planning on  
20 doing any further work to prepare to testify in the  
21 case?

22 A I may review some articles. You mean,  
23 between here and the trial or the court?

24 Q Yeah.

25 A I may review articles. I have made a note

1 to just - if I see things in the media and the  
2 newspaper just to clip them out if they pertain to  
3 smoking and advertising.

4 Q So, you may clip some articles from the  
5 papers on smoking and advertising?

6 A Yes.

7 Q You said you may review some articles.  
8 What did you mean by that?

9 A Some of the articles here that I didn't  
10 have a chance to read in this packet here.

11 Q Other than the material that is here today,  
12 do you plan on reviewing anything else?

13 A I don't have any plans, no.

14 Q You have not had a chance to look at the  
15 material that Mr. Holford dropped off for you in  
16 January; is that correct?

17 A I think I have read one or two and just  
18 glanced at some of the others. I have not studied  
19 them intensely.

20 Q Which are the one or two that you read so  
21 far?

22 A I think I read Dr. Pollay's - it was his  
23 affidavit, I think, and also his article that he  
24 wrote that's in there.

25 Q You have not read anything else of the

1 material that Mr. Holford gave you; is that correct?

2 A You mean in its entirety?

3 Q Well, let's start there - in its entirety.

4 A I don't believe so, no.

5 Q Have you read parts of any of the other  
6 materials?

7 A Yes.

8 Q Which materials?

9 A I think I read parts of all of them. I may  
10 have read a summary or just glanced through the  
11 tables; but I really didn't do any intense, you know,  
12 studying.

13 Q You haven't read them thoroughly or in  
14 detail yet?

15 A No, I haven't.

16 Q Do you plan on reading them thoroughly and  
17 in detail prior to the time you testify at trial?

18 A I don't think so. I really don't feel that --  
19 No, I don't think so.

20 Q You are sufficiently comfortable with them  
21 right now that you don't need to make any further  
22 review of those materials?

23 A Yes.

24 Q (Tendering) Let me put in front of you what  
25 we have marked as Exhibit 1 previously. Let me ask

1       you, first of all, it's correct, isn't it, that this  
2       exhibit explains everything that you are going to  
3       testify about at trial?

4       A           To my knowledge, yes.

5       Q           In other words, there is nothing else that  
6       you plan to testify at trial other than what's set  
7       forth in Exhibit 1, correct?

8       A           That's correct.

9       Q           Now, if you will flip over to the second  
10      page of that exhibit, that's Mr. Holford's note to  
11      you dated March 31st, 1993, right?

12     A           (Witness complying) Right.

13     Q           And in Paragraph 1 there, there is a  
14     parenthetical; and he says: "(Assume advertising  
15     expert will establish that tobacco advertising has  
16     since the 1930's been to a substantial degree aimed  
17     at young people.)"

18                 Now, is your opinion based on that  
19     assumption?

20     A           No.

21     Q           It is not based on that assumption?

22     A           No.

23     Q           Has Mr. Holford asked you to assume that  
24     that assertion is true for the purposes of your  
25     testimony at trial?

1           A           In that an advertising expert will  
2           establish that tobacco - yes, that that would be  
3           established, right, but ---

4           Q           (Interrupting) Mr. Holford has asked you to  
5           make that assumption, right?

6           A           Well, I guess I see mine as being separate.  
7           Whether that was there or not, I guess I would still,  
8           you know, speak to the part before that.

9           Q           In other words, your testimony would still  
10          be the same even if cigarette advertising were not  
11          aimed at young people. Is that your testimony?

12          A           I am trying to see if I understand so that  
13          I can answer it to make sure that I understand it.

14                      Could you repeat it again?

15          Q           Well, my question is ---

16          A           (Interrupting) Maybe I am overreading.  
17          Maybe I am reading more into it than is there.

18          Q           In terms of the opinions that you are going  
19          to give at the trial of this case, does it matter to  
20          you whether cigarette advertising is to a substantial  
21          degree aimed at young people?

22          A           I would still say, no, it wouldn't because  
23          I would still say that advertising affects young  
24          people whether it is designed -- I don't know that  
25          the intentions of the advertiser is to do that. I

1       assume it is, but I can't state that. I haven't done  
2       any research on it.

3       Q           I think you told me a couple of things.  
4       No. 1, I think you said you have no independent basis  
5       yourself for asserting that cigarette advertising is  
6       aimed at young people, correct?

7       A           I have no what kind of evidence?

8       Q           Independent basis of your own to testify ---

9       A           (Interrupting) I have my own opinion about  
10      it.

11      Q           It is an opinion, but do you have any  
12      evidence to support that opinion? Is it a personal  
13      impression or is it a professional opinion that you  
14      are expressing.

15      A           My professional opinion would be that the  
16      advertising does have an aura of trying to induce  
17      young people to smoke.

18      Q           Do you have a professional opinion whether  
19      cigarette advertising is aimed to a substantial  
20      degree at young people - "yes" or "no"?

21      A           "Professional" in what sense? I'm a  
22      psychiatrist. I am not an advertiser.

23      Q           I understand that. So, do you have a  
24      professional opinion as a psychiatrist, which is your  
25      field of specialty, right?

1 A Yes.

2 Q Do you have a professional opinion as a  
3 psychiatrist whether cigarette advertising is to a  
4 substantial degree aimed at young people?

5 A Yes.

6 Q You have a professional opinion on that  
7 subject?

8 A Yes.

9 Q And what is your professional opinion?

10 A That it is.

11 Q What is the basis for that opinion?

12 A My looking at advertisements of cigarettes,  
13 the degree to which they appear in magazines and  
14 publications aimed at children - publications my  
15 children get.

16 Q You said the way the advertisements appear  
17 and the magazines that they appear in?

18 A Right. Also, the fact that in going to  
19 concerts, in particular in the African-American  
20 community, that a number of the musical events are  
21 supported by cigarette companies - the Kool Jazz  
22 Festival being one that stands out in my mind. The  
23 number of advertising support of groups where there  
24 are a lot of youth in attendance - such as the Urban  
25 League conventions, NAACP Youth conventions - as

1       being prominent sponsors of those events. The movies  
2       that I have gone to, where I have noted that there  
3       have been movies that particularly had an appeal for  
4       young people, there are been billboards shown in the  
5       movies advertising cigarettes.

6       Q           Is that the entire basis for your opinion,  
7       sir?

8       A           The fact that when I see children, a lot of  
9       times they are very much influenced by things such as  
10      advertising, what they feel is conceived as cool or ---

11     Q           (Interrupting) That's not what I am asking  
12     you, Doctor.

13                   MR. HOLFORD: Mr. Riley, I'm  
14                   sorry, would ---

15                   MR. RILEY: He is answering a  
16                   different question, Doug.

17                   MR. HOLFORD: I object then to  
18                   the nonresponsiveness, all right?

19                   If you were finished, fine. If  
20                   not, go ahead.

21     (By Mr. Riley)

22     Q           My question really is: Do you have any  
23     other basis for observing that cigarette advertising  
24     is aimed at young people to a substantial degree?

25     A           On the basis other than these articles here

1       that I have reviewed, or are you saying prior to my  
2       looking at these articles?

3               I have had opinions, yes, that cigarette  
4       advertising - well, that advertising in general, that  
5       can be a substantial factor or has been a substantial  
6       factor.

7       Q           You misunderstand my question.

8       A           Okay.

9       Q           I believe you told me a number of reasons  
10      why you believe that cigarette advertising is aimed  
11      at young people to a substantial degree, have you  
12      not?

13      A           Yes.

14      Q           Have you told me all the reasons you hold  
15      that opinion?

16      A           I think so. I think that's most of it.

17      Q           You mentioned movies and the fact that  
18      there were billboards in the movies. What movies are  
19      you referring to?

20      A           Gosh, I think there was a movie, BOYZ 'N  
21      THE HOOD. The movie BACK TO THE FUTURE sticks in my  
22      mind. I think there was a prominent feature of  
23      billboards in that movie.

24      Q           These are movies you saw for recreational  
25      purposes?

1           A           Yes. There may have been others. I can't  
2 really recall the specifics right now.

3           Q           Do you recall the brands in any of those  
4 movies?

5           A           For some reason Marlboro tends to stick out  
6 and I think Winston cigarettes.

7           Q           What Urban League and NAACP Youth  
8 conventions have you been to?

9           A           The one was the Urban League had a  
10 convention in Houston a couple of years ago. I think  
11 I went to a session there. I had a relative who was  
12 in speaking at that.

13          Q           Was that the only Urban League convention  
14 you have been to? Was that Urban League or NAACP?

15          A           That was Urban League, I believe.

16          Q           That's the only one you have been to?

17          A           Yes.

18          Q           What about NAACP?

19          A           I haven't been to any of those national  
20 meetings.

21          Q           You saw a speaker at the Urban League  
22 convention?

23          A           I think so, yes.

24          Q           What was the subject the person spoke on?

25          A           I don't know. I don't remember.

1 Q How old were the people in attendance at  
2 the session you attended?

3 A I would probably say maybe 40's - 30's or  
4 40's.

5 Q Have you ever attended the Kool Jazz  
6 Festival?

7 A Yes.

8 Q Where?

9 A In Milwaukee and one in Houston.

10 Q Two times?

11 A Uh-huh.

12 Q When was the one in Milwaukee?

13 A I believe it may have been in the early  
14 Eighties or - I'm sorry - probably in the late  
15 Seventies because I was still there then.

16 Q What about the one in Houston?

17 A The one in Houston was probably in '79 or  
18 '80, I believe.

19 Q Those are the only two times you have been  
20 to the Kool Jazz Festival?

21 A Yes.

22 MR. RILEY: Do you want to take a  
23 break for lunch, Doug?

24 MR. HOLFORD: Okay.

25

(AT THIS TIME A LUNCH RECESS WAS  
TAKEN, AND THE PROCEEDINGS THEREAFTER  
RESUMED AS FOLLOWS:)

(By Mr. Riley)

Q Before we broke for lunch, Doctor, we  
talked a little bit about you mentioned the Kool Jazz  
Festival?

A Yes.

Q You attended two of the Kool Jazz  
Festivals. How much is a ticket for the Kool Jazz  
Festival?

A I don't remember. I imagine they were \$15  
or so at the time.

Q At the time?

A Yes.

Q It would be a lot more today?

A I would imagine so.

Q Do you remember who the performers you saw  
were?

A The ones in Houston, I think, may have been  
Whitney Houston, the O'Jays -- I'm sorry. Not  
Whitney Houston. Natalie Cole, I think. I can't  
remember. I am just guessing.

Q The O'Jays are a pretty old group?

1 A Yes.

2 Q Do they appeal to an older crowd?

3 A Yes.

4 Q What about the one in Milwaukee?

5 A I can't remember the performers.

6 Q Do you happen to recall the composition of  
7 the audience at either one of these concerts that you  
8 saw - the Kool Jazz Festival?

9 A Yes.

10 Q I assume when you saw the O'Jays, it was  
11 mostly an older crowd?

12 A They were, I think, three of different --  
13 they usually had people who appealed to all age  
14 groups. Sometimes the parents had to bring the  
15 younger kids; but they had some other acts, too. I  
16 mean, the O'Jays appeal to young people, too. They  
17 had a hit record out at the time.

18 MR. RILEY: That's not  
19 responsive.

20 (By Mr. Riley)

21 Q Can you tell me the breakdown of the  
22 audience for either one of the Kool Jazz Festivals  
23 that you saw?

24 A I can't remember.

25 Q You have no idea, do you?

1 A (No response)

2 Q That's all right.

3 A Did he answer the question?

4

5 (AT THIS TIME THE COURT REPORTER  
6 READ BACK THE REQUESTED PORTION OF  
7 TESTIMONY.)

8

9 (By Mr. Riley)

10 Q That's fine.

11 You mentioned, also, that you had seen  
12 cigarette advertisements that were contained in  
13 magazines. What magazines were you referring to when  
14 you said that?

15 A A number of the magazines EBONY; JET;  
16 ESSENCE; I think in the magazine, SEVENTEEN; GLAMOUR.  
17 There was a magazine for videos that my son gets, I  
18 think, that had some advertisements for cigarettes in  
19 it.

20 Q What is the name of that magazine?

21 A I can't tell you. Two or three of my -- I  
22 don't know the exact name of it.

23 Q Do you know the breakdown of the readership  
24 of JET, the demographics in terms of the age groups?

25 A Do I know the breakdown? No.

1 Q Have you ever looked for it?

2 A No.

3 Q What about EBONY?

4 A No.

5 Q What about ESSENCE?

6 A I imagine ESSENCE would appeal more to  
7 young minority women, if I had to guess. I don't  
8 know it, but I assume that's their target audience.

9 MR. RILEY: I am going to object  
10 and move to strike.

11 (By Mr. Riley)

12 Q I am going to ask you: Do you know what  
13 the demographics of the readership of ESSENCE  
14 magazine in terms of the age of the readers? Do you  
15 know or not?

16 A Do I know for a fact what it is, or do I  
17 know and have a general impression of what it is  
18 based on what the magazine is aimed towards?

19 Q Well, do you know specifically?

20 A No.

21 Q Have you ever looked?

22 A I think I may have seen a survey with  
23 looking at magazines and where ESSENCE was, but I ---

24 Q (Interrupting) Did the survey report on the  
25 percentage of readers of ESSENCE magazine who were

1 particular age groups?

2 A Yes, I believe it did.

3 Q Where did you see this report?

4 A I don't remember.

5 Q Do you have any idea what the report said?

6 A Well, for ESSENCE, that it's readership was  
7 more to women between the ages of 18 and 35.

8 Q What about the magazine, SEVENTEEN? Do you  
9 have any idea what the demographics of the readership  
10 of that magazine is?

11 A I have an idea that it might be aimed  
12 towards young females of adolescent age.

13 Q But you have never seen any data on that,  
14 have you?

15 A No.

16 Q What about GLAMOUR? Have you ever seen any  
17 data reporting the demographics of the readership of  
18 GLAMOUR magazine?

19 A No.

20 Q The video magazine for your son - do you  
21 have any idea what the readership of that magazine  
22 would be?

23 A I imagine it would be kids who play  
24 Nintendo from 6 years old to however to adult.

25 Q You can't remember the name of that at all?

1           A           I can't, no.

2           Q           Do you remember where your son got it?

3           A           I think he may have gotten the original one  
4           from a friend and that he sent in something and that  
5           I think we got a copy at home in the mail, if I  
6           remember correctly.

7           Q           You have never seen any data reporting the  
8           readership of that magazine, have you?

9           A           No, I have not.

10          Q           Doctor, your expert report - and by that, I  
11          am referring to Exhibit No. 1 of your deposition -  
12          makes no reference to Sam Allgood.

13                   Is it correct, sir, that you will not refer  
14          to Sam Allgood in your testimony at the trial of this  
15          case?

16          A           Unless I am asked some specific question, I  
17          can't. I don't ...

18          Q           Well, have you been asked to talk about Sam  
19          Allgood at the trial of this case?

20          A           No, I have not.

21          Q           Doctor, again, I am referring to Exhibit  
22          No. 1. It refers to - these are the words - "tobacco  
23          industry advertising"; is that correct?

24          A           Yes.

25          Q           It is on Page 2 of Exhibit 1.

1 A Yes.

2 Q And that refers to cigarette advertising  
3 generally; is that correct?

4 A Yes.

5 Q And you don't intend to talk about  
6 particular cigarette advertisements, do you?

7 A No.

8 Q And you haven't reviewed any cigarette  
9 advertisements to formulate your opinions in this  
10 case, have you?

11 A No.

12 Q In fact, you don't even know what brand of  
13 cigarettes Mr. Allgood smoked, do you?

14 A I think I remember a reference to him  
15 smoking Camels, but I am not sure.

16 Q You are not sure?

17 A No.

18 Q You certainly don't know what cigarette  
19 advertisements Mr. Allgood may have seen?

20 A No.

21 Q Now, you say in your report: "Tobacco  
22 industry advertising is and has been a substantial  
23 factor in causing an adolescent or a teenager who had  
24 experimented with smoking to continue."

25 Is that right?

1 A Yes.

2 Q First of all, let me ask you what do you  
3 mean by "experimented"?

4 A Someone who may have been using cigarettes  
5 out of curiosity's sake or smoking with a friend or  
6 taking cigarettes from their parents or something  
7 like that and trying them.

8 Q Sort of like what you had done when you  
9 were a kid?

10 A Yes.

11 Q Let me ask you this: What empirical  
12 evidence do you have, Doctor, to support your opinion  
13 that advertising may cause a teenager or adolescent  
14 who has experimented with smoking to continue  
15 smoking?

16 A What empirical evidence? The opinions that  
17 if someone, you know, experiments with something and  
18 then they see advertisements that glamourize that or  
19 make it seem like it is acceptable or in the case of  
20 adolescents, adult, that they might be more inclined  
21 to continue with it.

22 Q Well, first of all, let me ask you: Do you  
23 have any empirical evidence to support your claim?

24 A Of patients that I might have seen or  
25 people that I might have come in contact with that

1       that has happened to when you say "empirical" -  
2       experiential?

3       Q           Well, have you seen any scientific studies  
4       that support your opinion?

5       A           Not that I can recall, no.

6       Q           Is there anything in your experience ---

7       A           (Interrupting) Other than the ones we've  
8       talked about here.

9       Q           It is all right here?

10      A           Right.

11      Q           It is included in the material that  
12      Mr. Holford gave you?

13      A           Right. And, again, I may have ---

14      Q           (Interrupting) Well ---

15                   MR. HOLFORD: (Interrupting) Go  
16                   ahead, sir.

17      A           If you want me to clarify, I may have run  
18      across articles before. I can't list them what they  
19      are, but I am sure I have seen things.

20      Q           What do those studies show - the ones that  
21      you can't remember?

22      A           I suspect they may have said something  
23      about advertising or glamourization of cigarettes or  
24      alcohol. It is an influence in causing young people  
25      to become addicted.

1 MR. RILEY: Well, I am going to  
2 object and move to strike that.

3 (By Mr. Riley)

4 Q Can you, as you sit here today, Doctor,  
5 identify any studies for me which support your  
6 opinion that cigarette advertising may cause an  
7 adolescent to continue smoking?

8 A No.

9 Q Do you have evidence of any other form  
10 which supports your opinion?

11 A Written form?

12 Q Any form at all.

13 A Not that I can recall.

14 Q Do you know the percentage of teenagers who  
15 do experiment with smoking?

16 A I have seen numbers that have ranged  
17 anywhere from maybe 2 million to 6 million teens.

18 Q That's not what I asked you.

19 A What did you ask? I'm sorry.

20 Q The percentage of teenagers who experiment  
21 with smoking at some time.

22 A The percentage of teenagers?

23 Q Yes.

24 A I don't know if I recall the numbers. I  
25 would maybe say 15, 20 percent.

1 Q Of all teenagers who have experimented with  
2 smoking at some time in their life?

3 A Yes.

4 Q So, it is your testimony, then, that  
5 approximately 80 percent of teenagers have never  
6 experimented with cigarette smoking?

7 A You asked me what percentage have I -- I  
8 don't know the percentages. I am just guessing at  
9 that number. It may be higher. It may be lower.

10 Q You just have no idea?

11 A No.

12 Q You wouldn't know the percentage of those  
13 who have experimented who continue smoking, then, do  
14 you?

15 A No.

16 MR. CRUSE: (Conferring) Would  
17 you just give me 30 seconds.

18 MR. HOLFORD: Sure

19

20 (AT THIS TIME A BRIEF RECESS WAS  
21 TAKEN, AND THE PROCEEDINGS THEREAFTER  
22 RESUMED AS FOLLOWS:)

23

24 (By Mr. Riley)

25 Q Dr. Knox, is there anything in the

1 materials that Mr. Holford has provided to you which  
2 supports your opinion that cigarette smoking causes  
3 adolescents to continue smoking?

4 A Yes.

5 Q Would you identify what that is for me.

6 A The special report from the American  
7 Council on Science and Health Presents Marketing  
8 Cigarettes to Kids; this article from the "Journal of  
9 Family Practice"; the article by Dr. Pollay, "The  
10 Targeting of Youths by Cigarette Marketers"; and the  
11 affidavit of Dr. Richard W. Pollay.

12 Q You have identified four documents for me,  
13 sir?

14 A Yes, those are the ones that I know for  
15 sure. Like I said, I haven't read all the documents  
16 in detail; but those, I think, speak particularly to  
17 that.

18 Q Have you had any discussion with  
19 Mr. Holford about what evidence may support your  
20 opinion?

21 A Not in particular, no.

22 Q When you and Mr. Holford were out of the  
23 room, what did you talk about, if anything?

24 A We talked about how nice these law offices  
25 were and how much money lawyers must make to support

1 all this.

2 Q Is that all you talked about?

3 A It is much better than what I make as a  
4 psychiatrist.

5 Yes.

6 Q Did you talk at all about these studies  
7 with Mr. Holford?

8 A No.

9 Q Have you had any discussion about these  
10 studies with Mr. Holford today?

11 A I don't think unless it was a general  
12 comment. We haven't had any, no, no discussions  
13 about these.

14 Q How about when we were out of the room?  
15 Did you go through any of these papers with  
16 Mr. Holford?

17 A No.

18 Q Doctor, as I understand it, you are not  
19 offering the opinion in this case that cigarette  
20 smoking causes teenagers to experiment with smoking  
21 in the first place, are you? You have not been asked  
22 to give that testimony?

23 A No.

24 Q Does advertising make people buy products  
25 they don't want or need, Doctor?

1 A Yes.

2 Q Have you ever bought a product that you  
3 didn't want or need because of an advertisement?

4 A Yes.

5 Q What was the product that you bought that  
6 you didn't want or need because of advertising?

7 A There have probably been a lot of things.  
8 You see something in the Sunday paper and you go and  
9 get it or you go into a store and there is a sale and  
10 you might buy an extra T-shirt that you didn't need  
11 or a pair of shoes that you don't need.

12 Q My question to you, sir, is whether you can  
13 recall anything in particular that you bought because  
14 of an advertisement that you didn't want or need.

15 A Yes, I bought shoes; I have bought shirts.

16 Q You didn't need the shoes, and you didn't  
17 need the shirt?

18 A No.

19 Q You bought them strictly because you saw an  
20 advertisement?

21 A Yes.

22 Q Where did you buy them?

23 A Various places - the Galleria, Target  
24 store. I have gone to a sporting goods store.

25 Q Did you ever wear those things - the shoes

1 and the shirt that you bought?

2 A Yes.

3 Q How many times have you worn the shoes that  
4 you bought?

5 A I couldn't tell you that. I don't know.

6 Q Do you still have them?

7 A I don't know. I can't tell you any  
8 particular shoes. I know I bought them.

9 Q How about the shirt? Did you ever wear the  
10 shirt that you bought?

11 A Yes.

12 Q How many times did you wear the shirt?

13 A Two or three times, maybe.

14 Q Do you still have it?

15 A I believe I do.

16 Q Did you like the shoes and the shirt?

17 A Yes.

18 Q And that's the reason you bought them,  
19 isn't it, because you liked them?

20 A Yes.

21 Q Do you have any idea what the term  
22 "clutter" is?

23 A Other than a bunch of junk sitting  
24 around ...

25 Q In the context of advertising, do you have

1       any idea what the word "clutter" is?

2       A           No, I don't.

3       Q           Do you know how many ads a typical person  
4       in the United States sees in a day?

5       A           No.

6       Q           Do you have any idea how much time  
7       consumers spend looking at individual advertisements?

8       A           No.

9       Q           Have you ever seen any studies that deal  
10      with that?

11      A           I don't believe so.

12      Q           Are you aware of whether consumers just  
13      ignore ads that they may be exposed to in the course  
14      of a day?

15      A           I imagine they do. I imagine people ignore  
16      ads, yes.

17      Q           Why do you say that?

18      A           There are a number of ads. I know I ignore  
19      ads sometimes.

20      Q           You ignore ads sometimes. How many ads do  
21      you think that you saw yesterday?

22      A           I have no idea, sir.

23      Q           How many ads that you saw yesterday do you  
24      recall?

25      A           I don't know of any.

1 Q Are you aware of any studies that compare  
2 the amount of time consumers look at ads in magazines  
3 to the amount of time they spend reading articles in  
4 magazines?

5 A No.

6 Q Do you have any idea why consumers may  
7 ignore some ads?

8 A I might have ideas about that. Some ads  
9 might not appeal to them because of the color or the  
10 presentation or some ads might have too much copy and  
11 they don't want to read it or some may be in things  
12 they have no relationship with or experience with.

13 Q In other words, they may not have any  
14 interest in the product that's being advertised,  
15 correct?

16 A That's correct.

17 Q Are you familiar with the term "selective  
18 attention"?

19 A In the way it regards to advertisement, I  
20 don't think so. I may have an idea what it means,  
21 but I wouldn't ...

22 Q Well, would you agree basically with the  
23 concept that people pay more attention to things that  
24 they are interested in and ignore things that they  
25 are not interested in?

1           A           Yes, for the most part.

2           Q           And wouldn't you agree the consumers are  
3 more likely to ignore ads for products that they  
4 don't want or that they are not interested in?

5           A           I would say they would be more likely to,  
6 yes.

7           Q           Wouldn't you agree that a person who uses a  
8 product is more likely to notice and remember an ad  
9 for that product than somebody who doesn't use that  
10 product or who has no interest in it?

11          A           I guess I would tend to say that they would  
12 probably be more likely to ignore that if they had no  
13 interest in it.

14          Q           And, conversely, you would be more likely  
15 to pay more attention if you were interested in it?

16          A           More likely to, yes.

17          Q           And that would be a reason why there may be  
18 a correlation between somebody's use of a product and  
19 awareness of an advertisement for that product,  
20 correct?

21          A           I'm sorry. Could you repeat that again?

22          Q           That would be a reason why there would be a  
23 correlation between somebody's awareness of an ad and  
24 their use of the product that's being advertised?

25          A           Yes, that's more likely.

1 Q Are you familiar with the term "counter  
2 argue"?

3 A No.

4 Q You don't know what it means in the context  
5 of advertising?

6 A No.

7 Q Do you know whether consumers understand  
8 the purpose of advertising?

9 A Yes.

10 Q You think they do understand the purpose of  
11 advertisements?

12 A Yes.

13 Q And they understand that the purpose of  
14 advertisements is to get them interested in the  
15 product - in that brand of the product, correct?

16 A Yes.

17 Q And isn't it true, sir, that even young  
18 children understand that concept?

19 A No, I don't think that's true.

20 Q You don't think that's true?

21 A No.

22 Q Are you familiar with any literature that  
23 deals with the question of what age people first  
24 understand the purpose of advertising?

25 A I have seen studies that have shown that

1 children sometimes as young as the age of 2 can  
2 remember an advertisement such as McDonald's and they  
3 know that, but they wouldn't understand that  
4 McDonald's is trying to get them to buy a hamburger.

5 MR. BIERSTEKER: Object.

6 Nonresponsive.

7 MR. RILEY: Object as  
8 nonresponsive.

9 (By Mr. Riley)

10 Q Have you read any studies that deal with  
11 the question of when children first understand the  
12 purpose of an advertisement?

13 A I don't believe so, no.

14 Q Are you familiar with any literature  
15 dealing with the question of how teenagers see  
16 cigarette advertising?

17 A No.

18 Q You are not aware of any studies how adults  
19 see cigarette advertising either, are you?

20 A No.

21 Q People drank alcohol during prohibition,  
22 didn't they, Doctor?

23 A Yes, I believe they did.

24 Q We can assume there was no advertising for  
25 alcohol at that time, correct?

1 A I suppose so, yes.

2 Q It wouldn't make much sense to advertise it  
3 if you couldn't sell it legally, would it?

4 A It wouldn't make much sense, no.

5 Q People drank anyway even though there was ---

6 A (Interrupting) Yes.

7 Q Why did people drink even though there was  
8 no advertising?

9 A I imagine because people, you know, liked  
10 alcohol and wanted to continue drinking it; and some  
11 people were probably addicted to it and needed to  
12 continue drinking it.

13 Q It could be a number of reasons, one of  
14 which may be that people enjoy drinking, correct?

15 A That's what I first stated, yes.

16 Q If cigarette advertising were eliminated,  
17 would the demand for cigarettes be eliminated?

18 A I don't think the entire demand. I imagine  
19 there would still be people who would smoke, maybe  
20 not as many.

21 Q Maybe not as many; but you are not sure  
22 about that, are you?

23 A No.

24 Q You don't know one way or the other, do  
25 you? You don't know one way or the other whether

1 demand would be reduced at all?

2 A I would assume that some demand would be --  
3 I would be surprised if it wasn't. I would say some  
4 demand would be reduced.

5 Q You say that you assume that, but are you  
6 aware of any evidence that supports that?

7 A I am not aware of any written evidence or  
8 can give you a cite, but I would just think it would  
9 stand to reason from logic that -- I know that if a  
10 company spends money on advertising, that they expect  
11 that they are spending that money to get people to  
12 use their product. If there was no advertising, then  
13 they would not have as many people using that  
14 product.

15 MR. RILEY: I am going to object  
16 and move to strike.

17 (By Mr. Riley)

18 Q I think you told me that if cigarette  
19 advertising were eliminated, there would still be  
20 demand for cigarettes. You told me that?

21 A Sure, yes.

22 Q And there are teenagers and adults who  
23 would continue smoking even if advertising were  
24 eliminated entirely, correct?

25 A Yes.

1 Q Is it correct, sir, that cigarette smoking  
2 is popular in countries that don't even have any  
3 advertising? Are you aware of that?

4 A I am not aware of that.

5 Q Are you aware of any studies that deal with  
6 the smoking rates in societies or in countries where  
7 there is no advertising for tobacco?

8 A Am I aware of any studies that talk about  
9 that? No.

10 Q Are you aware of any studies that report  
11 smoking rates in societies that are preliterate or  
12 primitive to the extent that there is no advertising  
13 at all?

14 A No.

15 Q Have you ever seen studies to that effect?

16 A No, I have not.

17 Q Would you have any idea what would cause  
18 people in societies where there is no advertising to  
19 smoke cigarettes?

20 A Would I be aware of any literature or would  
21 I have an opinion as to why? I'm sorry.

22 Q First of all, are you aware of any  
23 literature that addresses that question?

24 A No, I am not.

25 Q Are you aware of any literature which

1 addresses correlation of smoking practices with  
2 factors other than cigarette advertising?

3 A Other factors might be whether or not a  
4 parent smoked, friends smoked.

5 Q Any other factors that might correlate with  
6 cigarette smoking?

7 A There have been some reports that have  
8 talked about educational level, socioeconomic  
9 factors.

10 Q How about any personality traits that  
11 correlate with cigarette smoking? Are you aware of  
12 any along those lines?

13 A No, I think not.

14 Q Do teenagers engage in risky behavior  
15 besides cigarette smoking?

16 A Yes.

17 Q What kinds of activities come to mind?

18 A Drinking, drug use, sexual activity.

19 Q Why do teens engage in those behaviors?

20 A There are probably a number of reasons why  
21 teens engage in those behaviors.

22 Q What would they be?

23 A They may engage in substance abuse because  
24 they may have an underlying mental disorder and they  
25 are self-medicating that with using drugs or alcohol.

1 They may be biologically and genetically predisposed  
2 to using those substances because of a parent.

3 You know, sexual behavior may be because of  
4 the glorification of sex in movies and in society,  
5 rebelliousness against parents, tendency to try to  
6 emulate adult behavior.

7 Q Isn't it true, Doctor, that teens who smoke  
8 have more positive attitudes towards risk than other  
9 teens who don't smoke?

10 A Isn't it true they have more positive  
11 attitudes towards risk?

12 Q Isn't it true that teens who smoke enjoy  
13 doing things that are dangerous?

14 A I don't know if that could be said about  
15 every teen who smokes. It might be one or two.

16 Q But by and large, teens who smoke are more  
17 likely to engage in other types of risky behavior  
18 than teens who don't smoke. Is that true or not?

19 A I don't know if it is true. If I had to  
20 guess, I would say it probably is true. I don't know  
21 that for a fact.

22 Q You don't know, but you are willing to make  
23 the assumption?

24 A Yes.

25 Q Are you aware of any literature that

1       measures the influence of cigarette advertising in  
2       causing or contributing to smoking in the United  
3       States - that actually measures it?

4       A           No, I don't.

5       Q           So, if cigarette advertising were  
6       eliminated in this society, you have no idea of the  
7       extent by which smoking would be reduced, if at all,  
8       isn't that right?

9       A           Right.

10      Q           Do you know what factors are the best  
11      predictors of whether someone is going to smoke  
12      cigarettes or not?

13      A           No, I can't say I know which ones are the  
14      best predictors, no.

15      Q           You have already identified a couple of  
16      predictors for me; and you mentioned family and/or  
17      smoking by friends and parents, correct?

18      A           Right.

19      Q           But what you are telling me is that you  
20      don't know which factors are most highly correlated  
21      with smoking practices by teenagers?

22      A           No, I don't.

23      Q           And you are not familiar with any  
24      literature that deals with that subject, correct?

25      A           That measures exactly how much advertising?

1 Q No, that measures which factors best  
2 predict smoking behavior. You are not familiar with  
3 any literature that deals with that subject.

4 A What I can recollect from the literature  
5 was that they don't know. They have a lot of  
6 factors. I don't know if they know which ones are  
7 the most important factors.

8 Q What studies have you looked at that  
9 examine factors that are associated with cigarette  
10 smoking?

11 A Other than the ones that I just reviewed, I  
12 don't recall any in particular that dealt with  
13 cigarette smoking, per se. They were probably all in  
14 data just dealing with substance abuse in general.

15 Q When you say other than the ones you have  
16 just reviewed, are you talking about the materials  
17 that Mr. Holford has given you?

18 A Yes, I am.

19 Q Are you familiar with any polls or surveys  
20 in which they have asked people for the reasons that  
21 they started smoking? Have you ever seen anything  
22 like that?

23 A I don't remember.

24 Q And you don't know what those polls show  
25 about the reasons people give for smoking, do you?

1           A           I haven't seen them, no. I wouldn't know  
2           the reasons.

3           Q           You don't know in those polls where  
4           advertising ranks on the list of reasons people give  
5           for starting smoking, do you?

6           A           No.

7           Q           You don't know what reasons are most  
8           commonly given by people for the reasons they started  
9           smoking, do you?

10          A           No.

11          Q           Doctor, you have not been asked to offer  
12          any opinion in this case as to the reason Sam Allgood  
13          started smoking, have you?

14          A           I think I have answered that. No, I have  
15          not.

16          Q           Do you know one way or the other whether  
17          Sam Allgood started smoking because of cigarette  
18          advertising?

19          A           No, I don't.

20          Q           Do you know one way or the other whether  
21          Sam Allgood continued to smoke because of cigarette  
22          advertising?

23          A           I don't know all the particulars in his  
24          smoking case, no.

25          Q           You don't know whether Sam Allgood smoked a

1 particular brand of cigarettes because of cigarette  
2 advertising, do you?

3 A I don't recall. For some reason Camels  
4 stick out, but I am not sure.

5 Q But you don't know the reason he smoked any  
6 particular brand of cigarettes, do you?

7 A No.

8 Q What would happen to the market share for,  
9 let's say, Carlton cigarettes if advertising for  
10 Carlton were diminished or eliminated? Do you know?

11 A I don't know.

12 Q Would you agree that there is a good chance  
13 that if advertising for Carlton cigarettes were  
14 eliminated, that Carlton's share of the marketplace  
15 would decline?

16 A I'm sorry. Did you say: Do I have a  
17 reason to believe that if they ---

18 Q (Interrupting) Would you agree with me that  
19 if advertising for Carlton cigarettes was eliminated,  
20 that the market share of Carlton cigarettes would  
21 decline?

22 A I would say yes.

23 Q You would agree with me, then, that  
24 cigarette advertising contributes to maintaining  
25 market share. Would you agree with that?

1 A Yes.

2 MR. RILEY: Give me five minutes,  
3 Doug.

4  
5 (AT THIS TIME A BRIEF RECESS WAS  
6 TAKEN, AND THE PROCEEDINGS THEREAFTER  
7 RESUMED AS FOLLOWS:)

8

9 (By Mr. Riley)

10 Q Dr. Knox, are you familiar with the term  
11 "source credibility" in the context of  
12 communications?

13 A In the context of communications, "source  
14 credibility"?

15 Q Or in any other context.

16 A I imagine it would mean, you know, how  
17 reliable your source of information is for a certain  
18 ideal.

19 Q Is that a guess?

20 A That's a guess.

21 Q You have never heard the term before?

22 A Not in the terms of -- I have heard of the  
23 term "source reliability," but not in the terms of  
24 advertising.

25 Q Do you know how consumers regard the

1       credibility of advertising generally? Have you ever  
2       seen any studies on that?

3       A           No.

4       Q           Well, I think I have already asked you  
5       this. If I have, I apologize.

6                You are not familiar with any studies that  
7       deal with the credibility or how consumers regard the  
8       credibility of cigarette advertising, are you?

9       A           I don't think so, no.

10      Q           You would agree with me that advertising is  
11      not the only source of information teens have with  
12      respect to cigarette smoking?

13      A           Yes, I would agree that it is not the only  
14      source.

15      Q           They hear about smoking from their family,  
16      correct?

17      A           Yes.

18      Q           Friends and peers?

19      A           Yes.

20      Q           News articles?

21      A           Yes.

22      Q           Doctors?

23      A           Yes.

24      Q           Teachers?

25      A           Yes.

1 Q Preachers?

2 A I imagine so, yes.

3 Q Government officials through the media?

4 A Yes, yes.

5 Q Health groups. They have been given  
6 information about smoking by health groups; and  
7 that's through the media, as well. Isn't that right?

8 A Yes.

9 Q Do you know how the credibility of messages  
10 regarding cigarette smoking of those groups compares  
11 to the credibility of messages about smoking  
12 contained in advertising?

13 A Do I have any -- No, I don't have any  
14 information that would pertain to that.

15 Q Do you have any reason to believe, Doctor,  
16 that the only information teens receive about  
17 cigarette smoking is that it's for adults only?

18 A I'm sorry. Could you repeat the question  
19 again?

20 Q Sure. Do you have any reason to think that  
21 the only information teens receive about cigarette  
22 smoking is that it is for adults?

23 A I'm sorry. Do I have ---

24 Q (Interrupting) Do you want me to ask it  
25 again?

1 A Yes, please.

2 Q All right. Maybe I will put it this way.  
3 Maybe it will help. Teens are told that smoking is  
4 for adults, correct?

5 A Right.

6 Q They are told other things, as well, aren't  
7 they?

8 A Yes.

9 Q They are told about the dangers of smoking,  
10 aren't they?

11 A Yes.

12 Q The health dangers?

13 A Yes.

14 Q And they are well-informed about the health  
15 dangers of smoking, aren't they?

16 A I don't know how well-informed they are  
17 about it; but they have been exposed to the  
18 information. How much they have absorbed, I don't  
19 know.

20 Q Have you done anything to determine the  
21 sources of information with respect to smoking and  
22 health that may have been available to either  
23 consumers in general or to young people in the past?

24 A Only the article from Dr. Pollay that  
25 talked about that, as far as advertising goes.

1 Q You haven't done anything yourself. You  
2 have read Dr. Pollay's article, right?

3 A Right.

4 Q You have done nothing to confirm  
5 Dr. Pollay's conclusions, have you?

6 A No. No.

7 Q Do you have any idea of what sources of  
8 information about cigarette smoking were most  
9 credible to Sam Allgood?

10 A No.

11 Q Would you agree with me that a face-to-face  
12 communication is generally more credible to the  
13 recipient than a message received through the mass  
14 communications?

15 A Could you rephrase that?

16 Q Certainly. Isn't a communication you  
17 receive face to face, let's say, from a family  
18 doctor, wouldn't that have more credibility than a  
19 communication you received through the mass media?

20 A Probably, yes.

21 Q Are there laws prohibiting the sale of  
22 cigarettes to minors, Doctor?

23 A Yes.

24 Q What message do those laws convey to people  
25 who are under age about cigarette smoking?

1       A           That smoking is reserved for adults, I  
2       would imagine.

3       Q           Do you agree that those laws are good or  
4       bad?

5       A           Good.

6       Q           You wouldn't advocate the repeal of those  
7       laws, would you?

8       A           No.

9       Q           Even though they have the effect of telling  
10      teenagers that smoking is only for adults, correct?

11      A           Right.

12      Q           Is there anything in terms of the  
13      techniques or the methods that is unique about  
14      cigarette advertising compared to other products?

15                   MR. BIERSTEKER: I'm sorry.

16                   Could you have that question read  
17                   back?

18      Q           Let me rephrase it.

19                   Are the techniques and the methods that are  
20      used in cigarette advertisements unique or the  
21      methods and techniques used in other products?

22      A           If they are unique, I don't think so. I  
23      don't know.

24      Q           You don't know one way or the other?

25      A           No.

1 Q You have no information on how much money  
2 is expended on cigarette advertising, do you?

3 A Millions.

4 Q Do you have any idea how that compares to  
5 the amount of money spent on advertisements for other  
6 products?

7 A I have read that cigarette companies spend  
8 more on advertising than other companies because they  
9 have more money to spend.

10 Q Well, let me ask you this: What's more  
11 heavily advertised, cigarettes or credit cards?

12 A It depends on the media. In the print  
13 media, I think, cigarettes.

14 Q Overall? Do you know one way or the other?

15 A No.

16 Q Cigarettes or airlines? Which is more  
17 heavily advertised overall?

18 A I would say cigarettes.

19 Q Do you know that, or is that a guess?

20 A That's a guess.

21 Q So, you don't know?

22 A No.

23 Q If I went down a list of other products,  
24 would you know; or would you just be guessing?

25 A I would probably be guessing.

1 Q Did you ever hear of a group called "DOC"?

2 A Yes.

3 Q Do you know what it is?

4 A I think it was started by a local doctor  
5 here who is advertising against tobacco, I think. I  
6 don't know if it is -- I think it is just tobacco.  
7 And he is really trying to get the medical  
8 profession, I think, to look at tobacco as a drug of  
9 abuse and that the advertisers really do influence  
10 young people to smoke.

11 Q Are you a member of DOC?

12 A No.

13 Q Have you ever had any dealings with it?

14 A No.

15 Q Do you know anyone who belongs to DOC?

16 A Not that I'm aware of.

17 Q Are you familiar with any of the methods it  
18 advocates?

19 A I think I have read where they have  
20 protested events that are sponsored by tobacco  
21 companies.

22 Q That's the extent of your knowledge?

23 A Yes.

24 Q One of the witnesses in this case has  
25 testified that brewers and distillers and vintners,

1 people who make wine, should be prosecuted for murder  
2 for the way they market their products.

3 Do you agree or disagree with that  
4 statement?

5 A I think that would be an extreme.

6 Q It's an extreme statement?

7 A Uh-huh.

8 Q You think the person who made it is an  
9 extremist?

10 A I don't know about the person. The  
11 statement is extreme. The person who made it may or  
12 may not be extreme. I don't know.

13 Q Do you have any information regarding the  
14 prevalence of cigarette smoking in the United States  
15 among 12- to 18-year olds?

16 A No.

17 Q And you are not familiar with any surveys  
18 that address that question, are you?

19 A Well, I am familiar. I think one of the  
20 articles stated that it was 2.6 million teens or  
21 something like that. The prevalence is 2.6 million  
22 teenagers are currently smoking.

23 Q In what age group?

24 A I think the age group was 12 to 18.

25 Q Is that here among the papers?

1 A Yes.

2 Q Do you think you could find that for us?

3 A I will try (Reviewing documents).

4 This one has just a percentage, I guess.

5 Let me see.

6 Q Doctor, why don't we do this instead of  
7 fumbling around.

8 MR. HOLFORD: Objection to  
9 counsel's characterization of what  
10 Dr. Knox is doing.

11 MR. RILEY: I didn't mean  
12 anything offensive.

13 MR. HOLFORD: I didn't say it was  
14 offensive. I said it was inaccurate.

15 MR. RILEY: Other than flipping  
16 through these papers.

17 Is that better?

18 MR. HOLFORD: All right.

19 (By Mr. Riley)

20 Q Maybe I will just ask you this: Other than  
21 what Mr. Holford may have provided to you, are you  
22 aware of any other surveys that deal with smoking  
23 rates among 12- to 18-year-olds?

24 A No.

25 Q Mr. Holford hasn't asked you to offer any

1       opinions at the trial of this case with respect to  
2       addiction, has he?

3       A           No.

4                   MR. RILEY: That's all I have  
5       got, Doctor. Thank you.

6                   Mr. Biersteker may have some  
7       questions.

8                   MR. BIERSTEKER: Maybe just a  
9       few.

10

11       EXAMINATION BY MR. BIERSTEKER:

12       Q           You talked a little earlier with Mr. Riley  
13       about having prescribed Nicorette gum and nicotine  
14       patches to some of your patients; is that right?

15       A           Yes.

16       Q           On how many occasions have you prescribed  
17       Nicorette gum or nicotine patches to patients that  
18       you have seen?

19       A           You mean all patients or just adolescent  
20       patients?

21       Q           Let's take all patients, first.

22       A           Maybe 15 or 20.

23       Q           Of those 15 to 20, how many of those  
24       patients were adolescents?

25       A           Maybe five or six.

1           Q           Have you had patients who quit smoking  
2           without any prescriptions for Nicorette gum or  
3           nicotine patches?

4           A           I suppose I have. I can't recall.

5           Q           You wouldn't be able to quantify that for  
6           me, would you?

7           A           No.

8                       MR. BIERSTEKER: Why don't we  
9                       take a short break and maybe I can  
10                      organize myself a little better and  
11                      we'll come back to that.

12  
13                      (AT THIS TIME A BRIEF RECESS WAS  
14                      TAKEN, AND THE PROCEEDINGS THEREAFTER  
15                      RESUMED AS FOLLOWS:)

16  
17           (By Mr. Biersteker)

18           Q           I think I just have a handful of questions  
19           at most.

20                      Is it fair to say, Doctor, that the only  
21                      empirical data of which you are aware concerning  
22                      cigarette advertisements, their effect on consumers  
23                      generally, or their effects on minors in particular  
24                      is found among the documents that Mr. Holford  
25                      provided to you?

1           A           Yes, that I am familiar with, yes.

2           Q           Do you have any idea whether or not the  
3 materials provided to you by Mr. Holford include all  
4 of the published scientific literature on those  
5 subjects?

6           A           No.

7           Q           Do you know whether Mr. Holford used any  
8 criteria in selecting the articles that he provided  
9 to you?

10          A           No.

11          Q           Do you know whether the articles that have  
12 been provided to you by Mr. Holford are  
13 representative of scientific literature on cigarette  
14 advertising and its effect on consumers, including  
15 minors?

16          A           That it is representative?

17          Q           Representative of the whole body of  
18 literature.

19          A           No, I don't think it is representative of  
20 the whole body.

21          Q           In what way do you think it is  
22 unrepresentative?

23          A           Well, there may be a lot of other articles  
24 that state the same things. There may be some that  
25 oppose what is said there.

1 Q You have been an author or coauthor of a  
2 number of articles that have appeared in the  
3 scientific literature, right?

4 A Yes, a few, yes.

5 Q In preparing those articles, did you do  
6 your own research?

7 A Yes.

8 Q Isn't it the accepted practice among  
9 psychiatrists who publish articles to conduct their  
10 own research in connection with those articles?

11 A For the most part, yes.

12 Q What are the exceptions?

13 A It depends on what you are talking about.  
14 Sometimes someone may consult a review article that  
15 has reviewed other research that is going on. So,  
16 the psychiatrist would use that as a reference; but  
17 he would not have done the original research that the  
18 article talked about.

19 Q Similar to review articles that you may  
20 have seen as a springboard to conduct further reviews  
21 of the literature, for example?

22 A I didn't get the first part of your  
23 statement.

24 Q You may use a review article, for example,  
25 as a springboard in order to identify additional

1 articles that the investigator may want to go out and  
2 review, right?

3 A Right.

4 MR. BIERSTEKER: I don't have  
5 anything further.

6 MS. COURINGTON: I have just a  
7 very few.

8

9 EXAMINATION BY MS. COURINGTON:

10 Q Doctor, my name is Lea Courington; and I  
11 represent one of the Defendants, the Tobacco  
12 Institute.

13 Do you understand who I am and who I  
14 represent in this case?

15 A I think so, yes.

16 Q Earlier in your deposition you had made  
17 reference to a videotape that Mr. Holford had brought  
18 to you, but that you had never looked at. And then I  
19 think you forgot to bring it with you today because  
20 it is at your house.

21 Do you recall that testimony?

22 A Yes, I do.

23 Q Did the videotape have any kind of label on  
24 it that gave its name?

25 A It was plain blue and it had a typewritten

1 label and I can't remember. I can't even remember  
2 who it was from, but it had nothing except the typed  
3 label of what was on it and I think ---

4 Q (Interrupting) You have never -- I'm sorry.  
5 I didn't mean to cut you off. Go ahead.

6 A I think it was some type of symposium. I  
7 don't know if it was a sample of advertisement or a  
8 sample of something the tobacco industry had put out  
9 or some other group had put out that was against it.  
10 I really couldn't tell you.

11 Q You have never watched the tape?

12 A No.

13 Q It is only one tape?

14 A It is one tape. I think by the title, it  
15 might have a number of different clips on it.

16 Q But the videotape itself is one cassette,  
17 if you will, only?

18 A Yes, it is one VHS-type of cassette.

19 Q Has Mr. Holford or anybody else ever told  
20 you what's on that tape?

21 A I think he told me when he gave it to me  
22 that, you know, "You might find this interesting in  
23 reviewing it." And I can't remember what he said  
24 specifically about it. I just don't recall.

25 MS. COURINGTON: Mr. Holford,

1                   since he forgot to bring it with him  
2                   today, can you tell us just as a  
3                   matter of courtesy what that tape is  
4                   so that we will have a clear record on  
5                   that today?

6                   MR. HOLFORD: I did. What I can  
7                   recall of it is it is put out by --  
8                   Actually what my notes - what I left  
9                   with him disclosed it is put out by  
10                  the Tobacco Institute. And what I  
11                  recall of it is it has, you know, the  
12                  scene of a parent telling an  
13                  offspring, I think, about smoking or  
14                  something.

15                 MS. COURINGTON: Is it a  
16                  videotape that you received in  
17                  production during discovery in this  
18                  case?

19                 MR. HOLFORD: Well, I am not --  
20                  No, it is not from production; and I  
21                  will not say further where I got it.

22                 MS. COURINGTON: No, I am not  
23                  asking you to say further; but I am  
24                  asking so that we can identify it.

25                 MR. HOLFORD: Well, that's about --

1                   That has been some time since I got  
2                   that, so ...

3                   MS. COURINGTON: Let me make  
4                   myself clear, Doug. I am not asking  
5                   you where you got it except in the  
6                   extent that I am asking you if  
7                   something you have given one of your  
8                   experts in this case is something,  
9                   since we are not able to identify it  
10                  more specifically, that you obtained  
11                  in a production by my client during  
12                  discovery in this case.

13                 MR. HOLFORD: I said, "No."

14                 MS. COURINGTON: Okay.

15                 MR. HOLFORD: But what I will do  
16                 since Dr. Knox, you know, was required  
17                 to bring that and simply forgot about  
18                 it - but if it were here, you surely  
19                 would be getting a copy of it - I will  
20                 arrange a copy to give to Dick, I  
21                 guess.

22                 MS. COURINGTON: If you want to  
23                 give it to Tom, that's fine since he  
24                 is the party who issued the Subpoena.

25                 MR. HOLFORD: He's in New York.

1 MS. COURINGTON: You can mail it.

2 MR. RILEY: Send it to Jana, and  
3 Jana will make copies.

4 MR. HOLFORD: To Jana. Okay.

5 MS. COURINGTON: Thank you. I  
6 appreciate that.

7 (By Ms. Courington)

8 Q Doctor, a little earlier in your testimony  
9 today you had referred to one of the articles that  
10 Mr. Holford had provided you at one of your meetings  
11 as being the article from the "Journal of Family  
12 Practice."

13 Do you recall that testimony?

14 A Yes, I do.

15 Q Is that article that you were describing  
16 when you referred to the article from the "Journal of  
17 Family Practice" the one by Joseph DiFranza and Tim  
18 McAfee?

19 I have it right here in my hand  
20 (Tendering).

21 A (Reviewing document) Yes, that's it.

22 Q Doctor, did Mr. Holford provide you with  
23 any information about the Tobacco Institute's efforts  
24 in states in which there are laws where the age at  
25 which minors can purchase cigarettes - the Tobacco

1 Institute's efforts through the legislative process  
2 to reset that age at age 18?

3 A Did Mr. Holford talk with me about that?

4 Q Has he given you any information about the  
5 efforts that the Tobacco Institute has made in states  
6 where there are such laws to have that age limit set  
7 at Age 18?

8 A I think some of that information was in one  
9 of the other handouts that was there.

10 Q If he did give you that information, is it  
11 in the material that you have brought with you and  
12 produced today?

13 A Yes, it is.

14 Q Have you yourself made any efforts to  
15 gather any additional information about what the  
16 Tobacco Institute has done to have that age limit set  
17 at Age 18?

18 A No.

19 Q Have you ever talked with either of the  
20 authors of this article - Dr. DiFranza or Dr. McAfee -  
21 about their research or writing of this article?

22 A No, I have not.

23 Q Has Mr. Holford provided you with any  
24 information about anything the Tobacco Institute has  
25 done with regard to legislation limiting advertising

1 on billboards that are close to schools?

2 A No, not that I recall.

3 Q And has Mr. Holford provided you with any  
4 information about anything the Tobacco Institute may  
5 have done with regard to laws regarding the sale of  
6 cigarettes through vending machines?

7 A You mean any additional material? I think  
8 that was also included in the articles he had given  
9 me - some information about that, but no additional.

10 Q If you do have information on that, then it  
11 is within these materials that you have brought with  
12 you and produced here today?

13 A Yes, it is.

14 MS. COURINGTON: Thank you.

15 We will reserve the remainder of  
16 ours until the time of trial.

17 MR. COWAN: No questions at this  
18 time.

19 MR. HOLFORD: That's it.

20

21 (WHEREUPON, THE DEPOSITION WAS CONCLUDED.)

22

23

24

25

1 THE STATE OF TEXAS:

2 COUNTY OF HARRIS:

3 I, LANIE M. SMITH, a Certified Shorthand  
4 Reporter, hereby certify that the foregoing testimony  
5 was given by me after the Witness had been first duly  
6 sworn.

7 I further certify that this deposition was  
8 typed under my direction and is a complete and  
9 correct transcript of the proceedings; and that it is  
10 being filed with the Court in accordance with the  
11 Stipulation of Counsel contained in this deposition.

12 I further certify that I am neither  
13 attorney for, related to, nor employed by any of the  
14 parties to the lawsuit in which this deposition was  
15 taken. Further, I am neither related to nor employed  
16 by any attorney of record in this cause; nor do I  
17 have a financial interest in the matter.

18 GIVEN UNDER MY HAND AND SEAL OF OFFICE this  
19 3rd day of March, 1994.

20  
21   
22 LANIE M. SMITH, CSR, RPR

23 Certification No.: 4110  
24 Expiration Date: 12-31-95  
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